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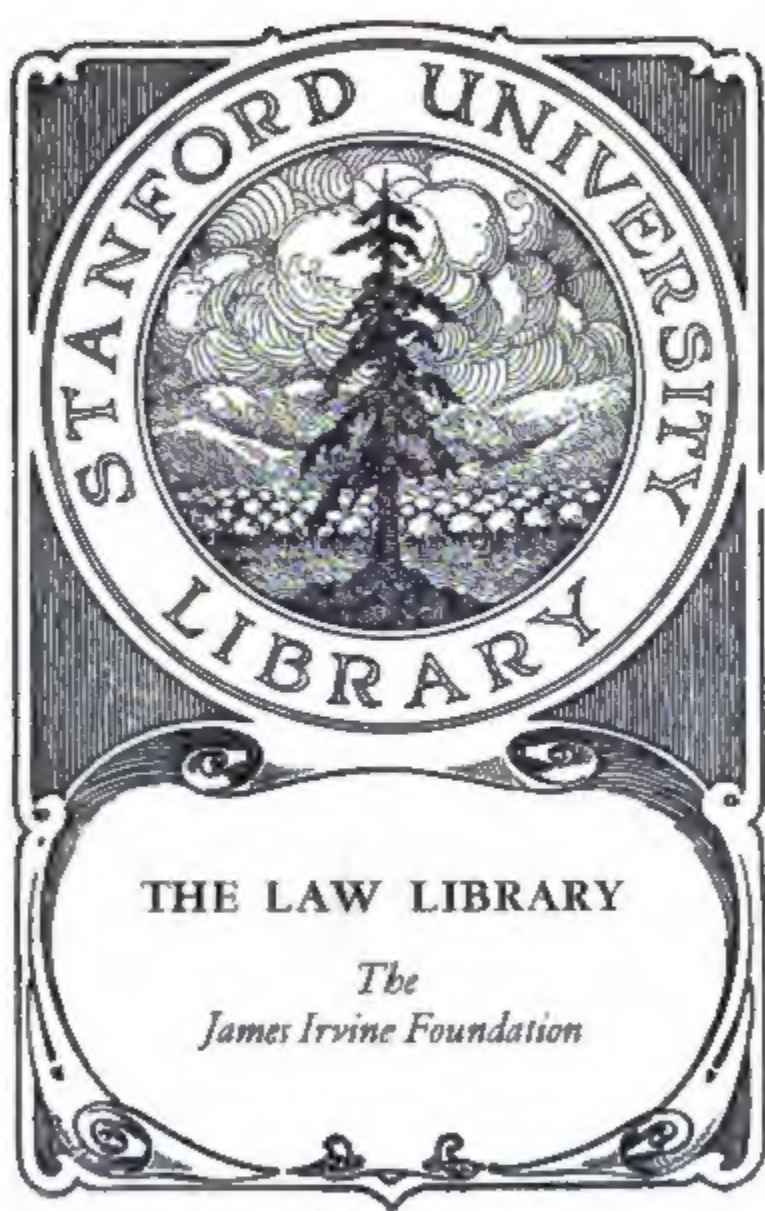
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A COMPLETE
SYSTEM OF PLEADING:

COMPREHENDING THE MOST
APPROVED PRECEDENTS and FORMS of PRACTICE;
CONSISTING OF
SUCH AS HAVE NEVER BEFORE BEEN PUBLISHED:

WITH AN
INDEX to the PRINCIPAL WORK,
INCORPORATING AND MAKING IT A CONTINUATION OF
TOWNSHEND's and CORNWALL's TABLES,
TO THE PRESENT TIME;

AS WELL AS AN
INDEX of REFERENCE to all the ANCIENT and
MODERN ENTRIES extant.

By JOHN WENTWORTH, Esq.
OF THE INNER TEMPLE, BARRISTER AT LAW.

*Ne quæ Studio dispôsta fidei
Intellecta priusquam sint contempta relinquo.* LUCRET.

V O L. VI.

CONTAINING
INDICTMENTS, &c.—PROCEEDINGS BEFORE JUSTICES—
QUO WARRANTO—PROHIBITION—MANDAMUS.

L O N D O N:
PRINTED FOR G. G. AND J. ROBINSON, PATERNOSTER-ROW.

1798.

P R E F A C E.

THIS Volume (the Second of the Criminal Division, and Sixth of this Work) comprehends the remainder of Indictments and Informations; Proceedings before JUSTICES; and in CRIMINAL SUITS; together with the Proceedings, partly *criminal* and partly *civil*, in QUO WARRANTO, PROHIBITION, and MANDAMUS. It may be recollected, that in the practical directions to the Fourth Volume, which is the First of the Criminal Division (as indeed in the Fifth of the Civil Division), I have said, that wherever I may obtain fresh matter in the course of compilation, I shall not hesitate to insert it, although it breaks in upon the strict arrangement of the Heads, if I can give the Precedent its due place in the Index, and a proper mark of reference to prevent difficulty to the Practitioner. In the Civil Division this has rarely happened. At the end of this Volume I have taken a greater liberty, by giving the remainder of my Indictments as an Appendix to both Volumes; but in the Index, scrupulously observing an exact order of reference to every Precedent in my own Work, and to every other extant, which I have considered worthy of reference.

In the distribution, or Analysis, I have principally followed Mr. Serjeant Hawkins, and for the minuter Divisions, Mr. Justice Blackstone: and, in conformity to the established division of Offences into *Felonies Capital* (subjecting the convicted person to capital

punishment), and *Misdemeanors* or Offences, *not capital*, I have *so* divided them; although capital punishment makes (a) *no part of the idea* of Felony.

I have also deviated from Mr. Serjeant Hawkins in postponing Offences not Capital, against *God, and his Holy Religion, &c.* and placing them among the *Misdemeanors* not classed, or *other Misdemeanors*. Offences against MAN (and first against the KING, and the Administration of his Government) will be found under the Head of LIBEL, and *Seditious Writings, &c.* and of *Other Misdemeanors*, both Indictments and Informations, ranging all the like Offences, not reducible to a common obvious Head, under *Misdemeanors not classed*.

The Capital Offences under the First Division, against GOD, are so unusual in these days, that even Lord Chief Justice Hale, if he had lived, would smile to see an Indictment for *Witchcraft*—and, perhaps, think it puerile in an Author to refer to one.—As a matter of curiosity, however, I have referred to one old Precedent under Murder, for *bewitching* a Man; and another for bewitching him on horseback as he was travelling, whereby he *died*. I have contented myself with referring merely to another—Offence against GOD, &c. namely, Heresy (now only cognizable in the Spiritual Court, except as to the punishment by the writ *de hæretico comburendo*, and that writ since abolished). Of the third offence I have purposely avoided giving any Precedent, observing, that the Judges, in Trials for this Offence, direct the Note-takers in Court to suppress the publication of the evidence; for the honor of humanity the Precedents are few, very few; I have

(a) *Vide* 4. Bl. Comm. 97. 98.

referred to such as are extant, and leave the ungrateful task of framing them to the Practitioner whenever the *sad* occasion calls for it.

The second important branch is an Offence against the King's Majesty, for HIGH TREASON (and for which see Appendix to this Volume, Criminal Division—and Tremaine's Pleas of the Crown, addenda to the Index); I have given all the Precedents of our own times.

Felonies against the KING relate chiefly to his *Coin*, and his *Army* (enlisting Soldiers to serve *abroad*, &c.); such of them as I have met with are among the Felonies on Statutes (instead of Offences at Common Law), and this head forms a very considerable collection of Precedents, being chiefly Offences against the SUBJECT.

Although, in conformity to Hawkins division of Felonies on Statutes, against *Public Credit*, against *Marriage*, &c. I have classed *all Felonies on Statutes*, viz. Forgery, Bigamy, &c. immediately to precede that *general Head*; yet I have also put them under their common known Head of Forgery, Bigamy, Rape, &c. distinguishing them for the Pupil. The same method will be observed in Indictments for Misdemeanors.

The Informations follow the order of *Indictments*, and for the like Offences. My reason for making Informations a distinct Head, was to preserve uniform the *Informations* for Assaults, Riots, and Offences relating to the Excise, and comprehending as well Proceedings before Commissioners of *Excise* and *Customs*, as *Justices of the Peace*. The only common Division I
1
make

make of Informations, is, of such as above are mentioned, and for LIBELS, &c. and *against Justices of the Peace*. The remainder following the order of the Analysis of Indictments are too few to subdivide, but sufficiently clear for practical use. Then follow *Convictions*, &c. and *Proceedings in Criminal Cases* (which are, for the most part too, Proceedings before *Justices of the Peace*). And thus I had intended to close the Volume with Proceedings in QUO WARRANTO, PROHIBITION, and MANDAMUS; though they respect *civil rights*, are Proceedings on the Crown Side of the Court among the Pleas of the Crown, and most fitly follow in the Criminal Division; but being favoured with a variety of Precedents of Indictments and Informations, after the mass of copy had been prepared, I could not resist adding some of the best Indictments, and a few Informations, although a number of both remain unpublished, for fear of exceeding the limits of the Publication. These (if I have leisure), I may perhaps still offer to the Public. The added matter will be found in its proper place in the Index (and this is my continual apology for all such precedents as may accidentally be misplaced. —As a Plea in Quo Warranto, p. 9.—and in p. 322. to 344.—in Vol. IV. p. 369.—and in this Vol. p. 14.—Proceedings before Justices).

Those gentlemen who publish can readily conceive, in two divisions of copy of a work of this extent distributed, a few mistakes will arise; still I entreat an attention to the Index, where I can confidently say (with the exception of human frailty alone), from the pains I take to make the references clear and easy, no mistake can happen; and that the Pupil will see his way through the two Volumes of Criminal Proceedings (the Fourth
and

and Sixth) with the same facility that the most experienced Pleader can, by whom the Index will *alone* be consulted. And for their further assistance in the use of the Index (if it can be necessary), the Reader will observe, that the Cardinal numbers *on the left hand* Vol. IV. VI. &c. and the pages refer to the page in that Volume of the *principal* Work.—*On the right*, and following the Precedents of the principal work, are the Precedents in the *modern* Books of Practice, Reporters, &c. under every Head as far as Modern Entries, and the references following, which occupy *the whole space*, are the *Old* Entries; and a Glossary of all the names of Entries, Reporters, &c. to the Criminal Division, the Fourth and Sixth Volumes. This direction will serve as well for the Index to any part of the *Civil Division*, the Author having observed one unvaried mode of reference to the whole body of Pleading, ancient and modern, including his own system, and is enabled to say, from the experience of the most learned in Pleading (as well as his own), that the Practitioner who is at a loss in the use of the Index to the Precedents in the Author's several books hitherto published, must want capacity to use *any* book.

There is a most useful Book of Precedents referred to in the Index, by itself, at the end of Informations, viz. *Tremaine's Pleas of the Crown*; and another in the body of the Index, Burn's Justice; together with the few Precedents in the Appendix to the Fourth Volume, of Blackstone's Commentaries, those I purposed to have referred to *generally*: the first for Indictments; the second for *Proceedings before Justices*, and *κατ' ἐξουνη* the last; considering Tremaine's Pleas of the Crown, to be the *best arranged*, and the most useful Book of Precedents of
Crown

Crown Law now extant. The forms of Informations occurring much more frequently in that book than Indictments, I have indexed them all to follow Informations, from which no difficulty will arise : but the Book itself (though too minute in its subdivisions of some Offences), and the Tables to it, may without hesitation be referred to.—This is the reason why I meant to refer to it generally, if I did not find myself bound to make my system as complete as my engagement to the Public demands of me.

Burn's Justice is rather questionable as to the authority of the form of the Precedents, especially Indictments ; but is, perhaps, the most useful Book ever published on the Law relating to Justices of the Peace, and in these instances are of most excellent use : yet, it does not hold the same reputation for Forms of Indictments, &c. as the great and decided authority of Tremaine's Pleas of the Crown. There are other Books, such as Dalton's Justice of the Peace, &c. Lambard, &c. which I consider useless since the publication of Burn's Justice. For the Forms, on that account, I have not referred to them. Bolton's Justice of the Peace for Ireland, containing a great variety of Indictments, &c. especially for Misdemeanors, with many other old Books relating to Justices, &c. I have entirely overlooked, thinking, that I have amply supplied my Index, and I am not aware of omitting any that may not be spared.

INDICTMENTS, INFORMATIONS, &c.

WILTS. Be it remembered that at the session of oyer ^(a) Issue on an and terminer of our lord the king, held at New indictment for Sarum, in and for the county of Wilts, on Saturday stealing wheat the fourteenth day of March, in the seventh year of the reign of our sovereign lord George the Third, king of Great Britain, &c. before the honourable sir Henry Gould, knight, one of the justices of his majesty's court of common pleas, the honourable James Hewitt, esquire, one of the justices of his majesty's court of king's bench, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to them the said sir Henry Gould, James Hewitt, and others, some two or more of them directed (of whom some one of them the said sir Henry Gould, knight, and James Hewitt, esquire, our said lord the king willed to be one) to enquire more fully the truth by the oath of good and lawful men of the said county, and by other ways, means, and methods by which they should or might better know, as well within liberties as without, by whom the truth of the matter might be the better known and enquired into, and of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of Great Britain and other kingdoms or dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppressions, champerties, deceits, and all other evil doings, offences, and injuries whatsoever, and also the accessaries of them within the said county, as well within liberties as without, by whomsoever and in what manner soever done, committed, or perpetrated, and

(a) See Indictments for Larceny, Vol. IV. p. 41. and Index to the Criminal Division.

the said treasons and other the premises according to the laws and customs of England for this time to hear and determine, by the oath of Thomas Goddard, John Jacob, Charles Penruddock, Charles Penruddock the younger, Nicholas Elliott, Thomas Bennett, John Awdry, William Wyndham, Dottington Egerton, Edward Poore the younger, John Methuen Poore, Richard Southby, Edward Scroggs, William Hayler, Thomas Phipps, John Cooper, and William Talk, esquires, good and lawful men of the said county then and there sworn and charged to enquire for our said lord the king for the body of the said county, it is presented in manner and form following, that is to say, Wilts: The jurors for our said lord the king upon their oath present, that Richard Byrt, late of the parish of Cricklade Saint Sampson, in the county of Wilts, yeoman, on the twenty-sixth day of September, in the sixth year of the reign of our sovereign lord George the Third, now king of Great Britain, &c. with force and arms, at the parish aforesaid, in the county aforesaid, *ten* **Ten sacks of wheat.** *sacks of wheat* of the value of twelve pounds of the goods and chattels of one Christopher Saunders, then and there being found, unlawfully and injuriously did seize, take, and carry away against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present that the said Richard Byrt afterwards, to wit, on the said twenty-sixth day of September, in the sixth year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, *two* **ad Count, two sacks of wheat meal.** *sacks of wheat meal* of the value of three pounds of the goods and chattels of one Charles Hooke, then and there being found, unlawfully and injuriously did seize, take, and carry away against the peace of our said lord the king, his crown and dignity; *at which* **Plea.** *same session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid, in and for the said county, on the said fourteenth day of March, in the seventh year of the reign aforesaid, before the same justices cometh the said Richard Byrt in his own proper person, and having heard the said indictment read, says he is not guilty thereof, and thereupon puts himself upon the country, and Richard Maddock, esquire, clerk of assize and clerk of the crown of the said county, who prosecutes for our said lord the king in this behalf, doth the like: There-* **Award of venire.** *fore the sheriff of the said county is commanded that he do not omit by reason of any liberty in his bailiwick, but that he cause to come before the justices of our lord the king, at the next session of oyer and terminer to be holden for the said county, twelve good and lawful men of the parish of Cricklade Saint Sampson aforesaid, by whom the truth of the matter will be the better known, and who have no affinity to the said Richard Byrt, to recognize upon their oath, whether the said Richard Byrt be guilty of the premises in the indictment aforesaid above specified or not, because as well the said Richard Maddock, who, &c. as the said Richard Byrt, have put themselves upon that jury; the same day is given to the parties at the same place at* **which**

CUSTOMS.—SPIRITS.

which next session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid, in and for the said county, on Saturday the first day of August, in the seventh year of the reign of our said lord the king aforesaid, before the honourable sir Joseph Yates, knight, one of the justices of his majesty's court of king's bench, the said James Hewitt, esquire, and others their fellows, justices of our said lord the king, assigned by letters patent of our said lord the king, under his great seal of Great Britain, to enquire of all treasons, murders, felonies, and all other evil doings, offences, and injuries whatsoever within the said county, as well within liberties as without, by whomsoever and in what manner soever committed or perpetrated, and the said treasons and other the premises, according to the laws and customs of England, for this time to hear and determine, &c.

This precedent and some others in this volume are not published in the strict order observed in the Fourth Volume, owing to fresh communications

under different heads, but they will be all found systematically classed in the INDEX to the Criminal Division.

Michaelmas Term, 15. Geo. III.

BE it remembered that Sir Fletcher Norton, knight, his majesty's attorney general, who prosecutes for his said majesty, being present here in court the twenty-eighth day of November in this term, in his own proper person, doth on the behalf of his said majesty give this court to understand and be informed, that certain merchants, whose names are as yet to the said attorney general unknown, did between the first day of December, in the year of Our Lord 1761, and on the day of the exhibiting of this information, import, or cause to be imported from parts beyond the seas into Great Britain, to wit, to Ratcliffe, in the county of Middlesex, within the port of London, in a certain ship or vessel, or certain ships or vessels to the said attorney general likewise unknown, by way of merchandize, one hundred and forty-four gallons of foreign brandy of the value of seventy-two pounds, and one hundred and forty-four gallons of *foreign geneva* of the value of seventy-two pounds, amounting in the whole to the sum of one hundred and forty-four pounds of their own proper goods and merchandizes, the said goods being at the time of the importation thereof liable to the payment of customs and other duties to his said majesty; and that the said merchants unknown did afterwards, to wit, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the port of London aforesaid, *unship* to be laid on land the said goods and merchandizes, and every part thereof out of the said ship or vessel, or ships or vessels before the customs and other duties due to his said majesty for the same goods were first paid or secured, contrary

trary to the form of the statute in that behalf made and provided, by reason whereof the said goods became and are forfeited; and being so forfeited the same goods and every part thereof afterwards, to wit, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the port of London aforesaid, came to the hands and possession of one Robert Lott, he the said Robert Lott at the same time when the said goods and merchandizes came to his possession, well knowing that the said goods and merchandizes and every part thereof were imported into Great Britain and unshipped to be laid on land as aforesaid, the customs and duties due to his said majesty for the same goods not being first paid or secured, contrary to the form of the statute in that case made and provided; wherefore his majesty's said attorney general, on the behalf of his said majesty, prayeth the consideration of this court in the premises, and that the said goods and merchandizes, and the sum of four hundred and thirty-two pounds, the treble value thereof, may for the reasons aforesaid remain forfeited, and that the said Robert Lott may appear here in court to answer concerning the said goods and merchandizes so come to his hands forfeited, and concerning the said sum of four hundred and thirty-two pounds of lawful money, being the treble value thereof.

FLETCHER NORTON.

Hilary Term, 12. Geo. III.

Information in
the exchequer
ex relatione at-
torney general
against certain
merchants un-
known, for im-
porting foreign
silks, laces, &c.
without paying
customs.

BE it remembered that Edward Thurlow, esquire, his majesty's attorney general, who prosecutes for his said majesty, being present here in court the twenty-third day of January in this term, in his own proper person doth on the behalf of his said majesty give this court to understand and be informed, that certain merchants, whose names are as yet to the said attorney general unknown, did between the first day of February, in the year of Our Lord 1769, and the day of exhibiting this information, import or cause to be imported from parts beyond the seas into Great Britain, to wit, at Ratcliffe, in the county of Middlesex, within the port of London, in a certain ship or vessel, or certain ships or vessels to the said attorney general likewise unknown, by way of merchandize, six hundred and two ells and one quarter of foreign white silk Blois lace of the value of sixteen pounds and seven pence, five hundred and ninety-eight ells and three quarters of foreign black silk Blois lace of the value of nine pounds eighteen shillings and three pence, five aprons, six pair of womens treble ruffles, ten pair of womens double ruffles, seven pair of mens ruffles and bosoms, all of muslin stitched with thread, of the value of fifteen pounds twelve shillings and six pence, amounting in the whole to the sum of forty-one pounds eleven shillings and four pence of their own proper goods and merchandizes, the said goods being at the time of the importation thereof liable to the payment of cus-

toms

toms and other duties to his said majesty, and that the said merchants unknown did afterwards, to wit, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the port of London, unship to be laid on land the said goods and merchandizes and every part thereof out of the said ship or vessel, or ships or vessels, before the customs and other duties due to his said majesty for the same goods were first paid or secured, contrary to the form of the statute in that behalf made and provided, by reason whereof the said goods became and are forfeited, the same goods and every part thereof afterwards, to wit, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the said port of London aforesaid, came to the custody and possession of one Frances Mason, the said Frances Mason at the said time when the said goods and merchandizes came to her possession, well knowing that the said goods and merchandizes and every part thereof were imported into Great Britain and unshipped to be laid on land as aforesaid, the customs and duties due to his said majesty for the same goods not being first paid or secured, contrary to the form of the statute in that case made and provided, whereby the said Frances Mason hath forfeited the sum of one hundred and twenty-four pounds fourteen shillings, the treble value of the said goods and merchandizes so come to her hands forfeited: And the said attorney general, who prosecutes as aforesaid, doth on the behalf of his said majesty further inform this court, that certain merchants, whose names are as yet to the said attorney general unknown, did between the said first day of February 1763 and the said day of the exhibiting of this information, import or cause to be imported from parts beyond the seas into Great Britain, to wit, to Ratcliffe aforesaid, in the said county of Middlesex, within the port of London aforesaid, in a certain ship or vessel, or certain ships or vessels to the said attorney general likewise unknown, by way of merchandize, six hundred and two ells and one quarter of foreign white silk Blois lace of the value of sixteen pounds and seven pence, five hundred and ninety-eight ells and three quarters of foreign black silk Blois lace of the value of nine pounds eighteen shillings and three pence, the same being foreign bone made of silk, five aprons, six pair of womens treble ruffles, seven pair of mens ruffles and bosoms of muslin stitched with thread, of the value of fifteen pounds twelve shillings and six pence, the same being foreign needlework made of thread, amounting in the whole to the sum of forty one pounds eleven shillings and four pence of their own proper goods and merchandizes, the said goods being at the time of the importation thereof prohibited to be imported into this kingdom, and that the said merchants unknown did afterwards, to wit, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the port of London aforesaid, unship to be laid on land the said goods and merchandizes and every part thereof out of the said ship or vessel, or ships or vessels, contrary to the form of the statute in that be-

Easter Term,
16. Geo. III.

half made and provided, by reason whereof the said goods became forfeited; and being so forfeited the said goods and every part thereof afterwards, within the time aforesaid, at Ratcliffe aforesaid, in the said county of Middlesex, within the port of London aforesaid, came to the hands and possession of the said Frances Mason, the said Frances Mason at the said time when the said goods and merchandizes came to her possession, well knowing that the said goods and merchandizes and every part thereof were prohibited to be imported into this kingdom, and were imported and laid on land as aforesaid, contrary to the form of the statute in that case made and provided; whereby the said Frances Mason hath forfeited the said goods and merchandizes, and also another sum of one hundred and twenty-four pounds fourteen shillings, the treble value of the said goods and merchandizes; wherefore his majesty's said attorney general, on the behalf of his said majesty, prayeth the consideration of this court in the premises, and that his majesty may recover against her the said Frances Mason the several forfeitures of one hundred and twenty-four pounds fourteen shillings, and that due process of law may be awarded against her the said Frances Mason to appear here in court to answer his said majesty concerning the premises.

E. THURLOW.

In the King's Bench, Hilary Term, 16. Geo. III.

Articles of the
peace exhibited
in B. R. by an
attorney for an
assault.

ROBERT PARKER, of Maidstone, in the county of Kent, gentleman, one of the attorneys of this honourable court, craveth sureties of the peace against Clement Taylor the younger, of the same place, paper maker, for the following causes: First, this informant on oath saith, that there having been a quarrel between this informant and the said Clement Taylor's family, he the said Clement Taylor, together with Thomas Taylor his brother, on the thirteenth day of July last, met with this informant in the High-street of the said town of Maidstone, as he this informant was going upon his business to the sessions house there, it being the time of the general quarter session for the said county of Kent, and attacked and violently assaulted, abused, and ill treated him this informant, and struck this informant many violent blows with sticks and fists upon his head, face, and other parts of his body, without any just cause or provocation whatsoever given them by this informant. Secondly, this informant on oath saith that he verily believes the said Clement Taylor still retains great malice and ill will towards him this informant, for that on the eighteenth day of January last past, this informant went into the public coffee-room in the said town of Maidstone, and the said Clement Taylor being there, without any just cause or provocation whatsoever given him by this informant, and without this informant having spoken a single word to or of the said Clement Taylor, he the said Clement Taylor suddenly,

denly started up in a passion and ordered this informant to walk out of the coffee-room; and this informant answered that he should not; upon which the said Clement Taylor replied, “ then “ you rascal I’ll make you ;” and immediately the said Clement Taylor with a large stick struck this informant several violent blows on the head, one of which broke in pieces the buckle in this informant’s hat; and that this informant endeavoured to defend himself with a small hazel stick, and the said Clement Taylor then closed in upon this informant and struck him several more very violent blows with his fists, and with his finger nails scratched a piece of skin off of this informant’s nose and upper lip, and made use of many abusive words, such as rascal and villain, and repeatedly threatened this informant that he would always treat this informant in the same manner wheresoever he should meet him, &c. And lastly this informant on oath saith that he doth not crave sureties of the peace against the said Clement Taylor the younger from a principle of malice or ill will, but for his personal safety only.

The above-named Robert Parker was sworn to the truth of the premises on Thursday next after fifteen days from the day of Saint Hilary, in the sixteenth year of king George the Third.

R. PARKER.

By the court.

BURROW.

SUSSEX, to wit. Be it remembered that at the general quarter sessions of the peace of our lord the king, holden at in and for the said county, on the day of , in the fourth year of the reign of our sovereign lord George the Third, now king of Great Britain, &c before , justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of Sussex, and also to hear and determine divers felonies and other misdemeanors committed within the said county, cometh W. M. of , in the said county of Sussex, who prosecutes as well for our sovereign lord the now king and the most noble duke of Norfolk, lord of the hundred of Rollesbridge, in the said county of Sussex, and of the liberties thereof, as for himself in this behalf, and giveth the court here to understand and be informed, that by a certain act of parliament, made at the parliament of our lord James the First, late king of England, &c. holden at Westminster, the nineteenth day of March, in the first year of his reign, and there continued until the seventh day of July 1604, and then prorogued until the seventh of February then next following, intituled, “ An Act concerning Tanners, Curriers, Shoemakers, “ and other Artificers occupying the cutting of Leather,” reciting (amongst other things) “ that forasmuch as bark was then “ late become very dear and scarce, which happened partly by “ reason that divers persons did engross and buy great quantities

Information *qui tam*, exhibited at the quarter sessions for Sussex against a man for fore-stalling bark to sell again against the statute 1. James 1.

“ thereof, and then did sell the same again at excessive and
 “ unreasonable prices, and partly by the unreasonable felling of
 “ oak out of the barking times,” it was (amongst other things)
 enacted by the authority of the same parliament, “ that no person
 “ or persons should regrate, ingross, or get into their hands by
 “ buying, contracting, or promise taking any oaken bark before
 “ it should be stripped, or after, to the intent to sell the same
 “ again, upon pain of forfeiture of all such barks so by him or
 “ them regrated, ingrossed, or bought, contrary to the true
 “ meaning of that present branch, or the full value thereof ;”
 and it was also by the same act (amongst other things) further
 enacted, by the authority of the same parliament, “ that the
 “ pains, penalties, and forfeitures of sums of money therein
 “ aforesaid (except such pains, penalties, and forfeitures as were
 “ before or thereafter by the said act should otherwise be dis-
 “ posed) should be divided into three equal parts, one part
 “ thereof should be to the said late king James the First, his heirs
 “ and successors, and another part to him or them that should
 “ first sue for the same in any of the courts of record of the
 “ said late king’s majesty, his heirs and successors, by action of
 “ debt, bill, plaint, or information, or otherwise, in which suit
 “ no wager of law or essoin should be admitted or allowed ;
 “ and that the third part thereof should go to the city, borough,
 “ town, or lord or lords of liberties, where the offence should
 “ be committed or done ;” and for the better execution of that
 act it was further enacted, “ that all justices of assize, justices
 “ of gaol delivery, justices of peace, and stewards of franchises,
 “ leets, and law day within their several precincts, jurisdictions,
 “ and liberties, and the mayor of London for the time being
 “ within the said city, and within three miles compass of the
 “ same city, and all other mayors and bailiffs and other head
 “ officers of cities, boroughs, and towns within their several
 “ jurisdictions, liberties, precincts, offices, and authorities should
 “ enquire of all the premises in their session, leet, or law day, and
 “ hear and determine the same, and also by their discretion ex-
 “ mine all persons suspected to offend against the said act or
 “ any parcel thereof,” as by the said act (amongst other things)
 more fully appears : And the said William, who presents as aforesaid,
 giveth the court here further to understand and be informed, that
 the said Daniel, not regarding the aforesaid act of parliament, nor
 the penalty therein contained, after the making of the said act,
 to wit, on the tenth day of August, in the year of Our Lord
 1763, and on divers other days and times between that day and
 the tenth day of November, in the year of Our Lord 1764,
 within the hundred of Rollesbridge, in the said county of Sussex
 and the liberties thereof, to wit, at the parish of Petworth, did
 get into his hands, by buying divers large quantities, to wit, *two*
hundred tons of oaken bark, to the intent to sell the same again,
 and which said bark he the said Daniel afterwards, to wit, on

Got in his pos-
 session by buy-
 ing two hundred
 tons of bark with intent to sell.

the

the eleventh day of January, in the said year of Our Lord 1764, did sell again, to wit, *at the parish of Petworth* aforesaid, contrary to the form and effect of the act of parliament aforesaid; and the said *William Marshal*, who sues as aforesaid, in fact says, that the said two hundred tons of oaken bark, at the time of buying and selling thereof, were of great value, to wit, of the full value of *six thousand pounds*, at the parish of Petworth aforesaid, in the county aforesaid; by reason whereof and by force of which said act of parliament the said Daniel then and there forfeited the said two hundred tons of oaken bark, so by him got into his hands by buying as aforesaid, or the aforesaid full value thereof, to our said sovereign lord the present king, to the said Edward duke of Norfolk, and also to the said *William* who sues as aforesaid, and that the said Daniel hath carried away and disposed of the said oaken bark, so that the same hath not nor could be seized; whereupon the said William, who sues as aforesaid, prayeth he may have one-third part of the forfeiture, according to the form of the said statute, and that due process of law may be awarded against him the said Daniel in this behalf, to make him answer as well for our said lord the king and the said Edward duke of Norfolk, lord of the liberty aforesaid, as to him the said *William*, touching and concerning the premises aforesaid, &c.

Trinity Term, 23. Geo. III.

THE KING } AND the said James Templar, esquire, co-
against } roner and attorney of our said present sovereign
JOHN SCOTT. } lord the king, in the court of our said present so-
vereign lord the king, before the king himself, who prosecutes
in this behalf for our said present sovereign lord the king, having
heard the said plea of the said John Scott in manner and form
aforesaid above pleaded in bar for our sovereign lord the king,
saith, that for any thing by the said John Scott above in pleading
alleged, our said present sovereign lord the king ought not to be
barred from having his aforesaid information against him the said
John Scott, because protesting that the said plea of the said John
Scott above pleaded, and the matters therein contained are not
sufficient in law to preclude our said sovereign lord the king from
having his aforesaid information against the said John Scott, yet
for a replication in this behalf he saith, that wherever there hath
been one only vacancy in the said number of commoners or com-
mon council men of the said town, from time whereof the memory
of man is not to the contrary, there hath not been nor is such
ancient custom and method of electing, swearing, and admitting
of a commoner or common council man of the said town, that
is to say, for the mayor, jurats, and commoners or com-
mon council men of the said town for the time being, and
for the mayor and so many of the jurats and commoners
or common council men of the said town for the time being,
as were willing and had a mind to be present (when they

(a) Plea, stating the particular custom of supplying a vacancy in the common council men, averring that defendant is one duly elected.

(a) These are pleas, &c. in *Quo Warranto*, which see post.

have

have thought it necessary), to meet and assemble themselves together in the said place called the Guildhall upon notice in that behalf, and being then and there so met and assembled together as aforesaid, that they the said mayor, jurats, and commoners or common council men of the said town, or the major part of them then and there present, have for all the time aforesaid elected, and have used and been accustomed to elect, and of right may elect such person being one of the commonalty of the said town as they have thought or do think fit and proper to be a commoner or common council man of the said town, and that such person so elected hath for all the time aforesaid been sworn and admitted into the said office of a commoner or common council man of the said town, before the said mayor, jurats, and commoners or common council men of the said town, then and there so met and assembled together as aforesaid, or before the mayor, jurats, and commoners or common council men, at any other time met and assembled in the Guildhall of the said town, and that every person so elected, sworn, and admitted into the said office of a commoner or common council man of the said town as aforesaid, hath always, from the time whereof the memory of man is not to the contrary, there had, used, and exercised, and hath been used and accustomed there to have, use, and exercise the office of one of the commoners or common council men of the said town, and hath always for and during all the said time, whereof the memory of man is not to the contrary, there had, used, and enjoyed, and hath been used and accustomed, and ought there to have, use, and enjoy all the liberties, privileges, and franchises to the said office of one of the commoners or common council men of the said town belonging and appertaining, in manner and form as the said John hath in and by his said plea above alledged, and this the said coroner and attorney of our said present sovereign lord the king prays, for our said sovereign lord the king, may be enquired of by the country, &c. And the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that upon Monday the first day of July, in the twenty-second year of the reign of our said present sovereign lord the king, there being then one only vacancy in the number of commoners or common council men of the said town, the said Bartholomew Bennett, the then mayor of the said town, and such of the jurats and commoners or common council men of the said town as were willing and had a mind to be present, did not upon the usual due notice given for that purpose, in due manner meet and assemble themselves together in the said place called the Guildhall, within the said town, as the said John Scott hath in and by his said plea above alledged, and this the said coroner and attorney of our said present sovereign lord the king prays may be enquired of by the country, &c. And the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that the said mayor, jurats, and commoners or common council men so met and assembled together as aforesaid, did not in due manner elect him the said John Scott,
then

PLEA.—ISSUE.—VERDICT.

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then and there being one of the commonalty of the said town, to be one of the commoners or common council men of the said town, as the said John Scott hath in and by his said plea above alledged, and this the said coroner and attorney of our said lord, for our said lord the king, prays may be enquired of by the country, &c. And the said coroner and attorney of our said lord the king, for our said lord the king, saith that the said John Scott did not before the said Bartholomew Bennett, then and there being mayor of the said town, and the jurats and commoners or common council men of the said town, then and there present, in due form take his corporal oath, upon the Holy Evangelists, for the due and faithful execution and discharge of the said office of a commoner or common council man of the said town, as the said John Scott hath in and by his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that the said John Scott was not in due manner admitted into the said office of a commoner or common council man of the said town, as the said John Scott hath in and by his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king, prays may be enquired of by the country: *And* the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that the said John Scott was not a commoner or common council man of the said town, in manner and form as the said John Scott hath in and by his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king, prays may be enquired of by the country, &c.

GEO. WOOD.

The annexed issue coming on to be tried at the last assizes held in and for the county of Kent, the jury found the following verdict:

THE KING, ON THE RELATION OF	} As to the first issue
THE YOUNGER CHARLES HOPE	
against	
JOHN SCOTT.	} joined between our
	} said lord the king, and
	} the said John Scott,

that whenever there hath been one only vacancy in the number of commoners or common council men of the town, from time whereof the memory of man is not to the contrary, there hath not been nor is such ancient custom and method of electing, swearing, and admitting of a commoner or common council man of the said town, that is to say for the mayor, jurats, commoners or common council men of the said town for the time being, and for the mayor, and so many of the jurats, commoners or common council men of the said town for the time being as were willing and had a mind to be present, when they have thought it necessary to meet and assemble themselves together in the place called the Guildhall upon notice on that behalf, and being then and there so met and assembled together as aforesaid, that they

ISSUES.—VERDICT.

they the said mayor, jurats, commoners or common council men of the said town, or the major part of them then and there present have for all the time mentioned elected, and have used and been accustomed to elect, and of right may elect such person, being one of the commonalty of the said town, as they have thought or do think fit and proper to be a commoner or common council man of the said town, and that such person so elected hath for all the time mentioned been sworn and admitted into the said office of commoner or common council man of the said town, before the said mayor, jurats, and commoners or common council men of the said town, then and there so met and assembled together as aforesaid, or before the mayor, jurats, and commoners or common council men at any other time met and assembled at the Guildhall of the said town, and that every person so elected, sworn, and admitted into the said office of a commoner or common council man of the said town as aforesaid, hath always, from time whereof the memory of man is not to the contrary, there had, used, and exercised, and hath been used and accustomed there to have, use, and exercise the office of one of the commoners or common council men of the said town, and hath always for and during all the said time, whereof the memory of man is not contrary, there had, used, and enjoyed, and hath been used and accustomed and ought there to have, use, and enjoy all the liberties, privileges, and franchises in the said office of one of the commoners or common council men of the said town belonging and appertaining, in manner and form as the said John Scott hath in and by his plea within alledged; as to the second issue joined between our said lord the king and the said John Scott, that upon Monday the first day of July, in the twenty-second year of the reign of our said present sovereign lord the king, there being then one only vacancy in the number of commoners or common council men of the said town, Bartholomew Bennett the then mayor of the said town, and such of the jurats and commoners or common-council-men of the said town as were willing and had a mind to be present, did not upon the usual notice given for that purpose, in due manner meet and assemble themselves together in the said place called the Guildhall, within the said town, as the said John Scott hath in and by his said plea alledged; as to the third issue joined between our said lord the king and the said John Scott, that the said mayor, jurats, and commoners or common council men so met and assembled together as aforesaid, did not in due manner elect him the said John Scott, then and there being one of the commonalty of the said town, to be one of the commoners or common council men of the said town, as the said John Scott hath in and by his said plea alledged; as to the fourth issue joined between our said lord the king and the said John Scott, that the said John Scott did not before the said Bartholomew Bennett, then and there being mayor of the said town, and the jurats and commoners or common council men of the said town then and there present, in due form take his corporal

corporal oath, upon the Holy Evangelists, for the due and faithful execution and discharge of the said office of a commoner or common council man of the said town, as the said John Scott hath in and by his said plea alledged; as to the fifth issue joined between our said lord the king and the said John Scott; that the said John Scott was not in due manner admitted into the said office of a commoner or common council man of the said town, as the said John Scott hath in and by his said plea alledged; and as to the last issue joined between our said lord the king and the said John Scott, that the said John Scott was not nor is a commoner or common council man of the said town in manner and form as the said John Scott hath in and by his said plea alledged; therefore, &c.

And hereupon all and in particular the matters above put in issue and tried by the country, being seen and fully understood by the court here, it appears in the said court from the verdict aforesaid, in form aforesaid, given against the said John Scott, that the said John Scott hath usurped and still doth usurp upon our said lord the king the place, office, liberties, privileges, and franchises in manner and form as by the said information is above charged upon him; therefore it is considered by the said court here, that the said John Scott no wise intermeddle with, nor in the said place, office, liberties, privileges, and franchises nor any of them, but that he be from henceforth wholly forejudged and excluded from exercising and using the same and every of them, and that the said John Scott be taken to satisfy our said lord the king for the usurpation aforesaid, and that the said Charles Hope, the relator abovenamed in this behalf, recover against the said John Scott the sum of for his costs and charges, by him in and about his suit in this behalf expended, according to the form of the statute in such case made and provided, &c.

Final judgments
in *quo warranto*.

COLLY.

CONVIC.

CONVICTIONS.

GAME.

Conviction by a justice of the peace of a person for having a gun and shooting a hare, and also for having two pheasants in his possession.

BERKS, to wit: Be it remembered that on, &c. in the tenth year of the reign of our sovereign lord George the Third, by the grace of God, &c. at A. in the said county of B. Thomas Teirce of A. aforesaid, gentleman, cometh before me A. B. esquire, one of the justices of our lord the now king, assigned to keep the peace of our lord the now king in and for the said county of B. and also to hear and determine divers felonies, trespasses, and other misdemeanors committed within the said county, and giveth me the said justice to understand and be informed, that on, &c. at, &c. one J. B. of, &c. in, &c. yeoman, did keep and use a certain engine called a gun in and for the destruction of the game of this kingdom, and then and there with the said gun loaded with gunpowder and shot did shoot at and kill one hare of the game of this kingdom, and then and there also at the same time, on, &c. at, &c. had in his custody two pheasants of the game of this kingdom, he the said J. B. then not having lands or tenements, or any other estate of inheritance in his own right, or in right of his wife of the clear yearly value of one hundred pounds, or for a term of life or lives, nor having then any lease or leases of any lands, tenements, or hereditaments for ninety-nine years, or for any longer term of the clear yearly value of one hundred and fifty pounds, nor being the son or heir apparent of any esquire, or any other person of higher degree, nor being lord of any lordship or manor, nor being owner or keeper of any forest, park, chase, or warren, stocked with deer or conies, for his necessary use, nor being game-keeper of any lord or lady of any lordship or manor, nor being truly or properly the servant of any lord or lady of any lordship or manor immediately employed or appointed to take, kill, or destroy game, for the sole use and benefit of such lord or lady of any lordship or manor, nor being in any other manner qualified or impowered by the laws or statutes of this realm, or of any of them, to kill or destroy the game of this kingdom, nor to have or use for himself, or for any other person or persons whatsoever, any instrument or engine for the destruction of the game of this kingdom, against the form of, &c. and the said T. T. now prayeth me the said justice, that the said J. B. may be by me convicted of the offences aforesaid, according to the form of, &c. and thereupon, on, &c. he the said J. B. appears in his own proper person before me the said justice, to answer the said matters so charged upon him in and by the said information,

information, and the said J. B. so being present in his own proper person before me, being such justice as aforesaid, and having heard the said matters above charged upon him by the said T. T. before me, now here is asked by me the said justice if he has any thing to say for himself, why he should not be convicted by me the said justice of the offences above charged upon him in form aforesaid, in and by the said information; whereupon the said J. B. now here before me, being such justice as aforesaid, acknowledges, confesses, and admits to and before me the said justice, that he is guilty of the matters and offences above charged upon him by the said T. T. in and by the information aforesaid before me, in manner and form as the said T. T. hath above in and by his said information alledged, and doth not say any thing for himself, why he should not be convicted of the said offences above charged upon him, and the said T. T. now here on, &c. at, &c. produceth before me the said justice, one W. B. of, &c. yeoman, a credible witness in this behalf, who being here duly sworn before me and by me the said justice in this behalf, on the Holy Evangelist of God, doth before me depose and say upon his oath aforesaid, in the presence of the said J. B. that on, &c. at, &c. in, &c. the said J. did keep and use a certain engine called a gun in and for the destruction of the game of this kingdom, and then and there with the said gun loaded with gunpowder and shot did shoot at and kill one hare of the game of this kingdom, and at the same time and place, from the same twenty-seventh day of, &c. at, &c. had in his custody two pheasants of the game of this kingdom, he the said J. B. then not having any lands or tenements, or any other estate or inheritance in his own right, &c. &c. (as before), against the form of, &c. and thereupon the said J. B. afterwards, on, &c. at, &c. is before and by me the said justice, adjudged guilty of the offence aforesaid, in the said information mentioned, and therein charged upon him, by and upon the oath of the said W. B. so being a credible witness as aforesaid, and upon his own confession as aforesaid, according to the form of, &c. therefore it is adjudged by me the said justice, that the said J. B. be convicted, and he is hereby convicted of the said offence, and that he hath forfeited the sum of five pounds for his said offence, to be levied and distributed according to the form of, &c. In witness whereof I the said justice, to this present record of the conviction aforesaid, have set my hand and seal, at A. aforesaid, in the county of B. aforesaid, the day and year first above written.

LANCASHIRE, to wit. Be it remembered that on, &c. in the twenty-eighth year of the reign of George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. at P. in the said county of Lancaster, M. S. of, &c. in, &c. came before me A. B. esquire, then and still being one of the justices of our said lord the king, assigned to

Conviction by a justice of the peace of a person for exposing a hare to sale.

to keep the peace of our said lord the king in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county, and gave me the said justice to understand and he informed, that on, &c. in, &c. one W. N. of, &c. unlawfully did expose to sale one hare of the game of this kingdom, he the said W. N. at the time when he so exposed such hare to sale, not having lands or tenements, nor any other estate or inheritance in his own or his wife's right of the clear yearly value of one hundred pounds *per annum*, nor for term of life, nor any lease nor leases of ninety-nine years, nor for any longer term of the clear yearly value of one hundred and fifty pounds, nor then being the son or heir apparent of an esquire, nor of any other person of higher degree, nor the owner or keeper of any forest, park, warren, or chase, being stocked with deer or conies for the necessary use of the owner thereof in respect of the said forest, park, warren, or chase, nor being in anywise qualified in his own right to kill game, nor entitled to the aforesaid hare under any person so qualified, against the form of the statute in such case made and provided; whereupon on, &c. at, &c. he the said W. N. was duly summoned in this behalf to appear before me in order to make his defence against the said charge contained in the said information at the house of J. B. in, &c. but the said W. N. doth neglect to appear before me, and doth not appear, nor make any defence against the said charge; therefore I the said justice, on, &c. at the said house of the said J. B. at, &c. do proceed to examine into the truth of the said complaint, and one credible witness, to wit, J. H. of, &c. comes before me the said justice, and before me the said justice upon his oath on the Holy Gospel of God to him now here before me the aforesaid justice administered, deposeth, sweareth, affirmeth, and saith, that on, &c. he was going to the house of J. B. in, &c. and in his way there saw the said W. N. with a hare in his possession in the bottom of a dry pit in a field facing his house, and that he covered it up in a cloak by way of concealing it; and the said J. H. upon his oath aforesaid further affirmeth and saith, that the said W. N. at the time when the said hare was so found in his possession as aforesaid, had not any estate in lands, tenements, or hereditaments of the clear yearly value of one hundred pounds, nor for term of life, nor any lease or leases for ninety-nine years, nor for any longer term of the clear yearly value of one hundred and fifty pounds, nor was he then any otherwise qualified by the laws of this realm; and the said J. H. upon his oath aforesaid further affirmeth and saith, that the said W. N. on the approach of him the said J. H. appeared shocked and alarmed, and endeavoured to conceal the hare by wrapping it up in the said cloak, and no evidence is offered or adduced to or before me the said justice by or on behalf of the said W. N. that he the said W. N. at the time when the said hare was so found in his possession as aforesaid, was in any manner qualified by the laws of this realm in his own right to
kill

kill game, or that he was then entitled to the said hare under any person qualified; and thereupon it manifestly appears to me the said justice that the said W. N. at the time when the said hare was so found in his possession as aforesaid, was not in anywise qualified by the laws of the realm to kill game in his own right, nor entitled to the said hare under any person so qualified, and that he the said W. N. is guilty of the said offence charged upon him in the said information; therefore it is now here considered and adjudged by me the said justice that the said W. N. upon the oath, evidence, and testimony aforesaid, be and is convicted of the offence aforesaid, and that he hath forfeited and do forfeit for the said offence the sum of five pounds, to be distributed according to the form of the statute in such case made and provided; in witness whereof I the said justice to this present record of conviction aforesaid, have set my hand and seal, at the house of the said J. B. in, &c. this twenty-first day of, &c.

V. LAWES.

I think that the circumstances of this case amount to the offence of *exposing a hare to sale* within the statute of 9. Ann. c. 25. s. 2. and that upon the whole the evidence is sufficient to support the conviction. It were to be wished, however, that it had gone the length of negating the fact of the *defendant not being entitled to the hare under any qualified person*, as well as of his own qualification. In this particular the evidence is somewhat short; but yet as the information charges such negative, and no evidence appears to have been offered by the defendant to disprove it, but on the contrary circumstances are disclosed which afford a fair *presumption* of the defendant having no such defence to offer, so I think the conviction may stand the test of objection; and more especially so, as though in the case of the King and Jarvis, 1. Burr. 148. 154. it is said, that both the evidence and adjudication must shew the want of qualification; yet by Lord Mansfield, in the recent case of Spicers and Parker, Term Rep. 1. vol. 141.—4. the negative averment of the want of qualification in proceedings on the game laws throws the burden of proof upon the *other side*. And though in the King and Jarvis the evidence of non-qualification is apparently required to be *spe-*

cific, yet the case of the King and Crow. Opinion to the ther, p. 125. of the Term Rep. is a strong authority to the contrary, so as the *information* be specific: and indeed in the latter case, the *evidence* given does not appear to have extended to the qualification at all, although the justice returned in *general* terms that there was no evidence adduced before in a qualification which was held to be sufficient. This case, therefore, seems to be an authority in answer to any objection to the want of more specific evidence to every qualification, or the total want of it as to any particular qualification, and to accept in lieu of it the general return of the magistrate, as to no evidence of the existence of qualification having been offered by the defendant; as to the distribution of the penalty the conviction is general; but as the statute gives it to the parish *at large*, so the poor of such parish *at large* have, perhaps, an interest in it; yet as there is no particular law directing any particular distribution of it, it may I think be distributed amongst the poor of this or that particular township, without applying it in the aid of the assessor; and the overseer of such township, and not the magistrate, is the proper person to make such distribution.

V. LAWES.

LANCASHIRE, to wit. Be it remembered that on, &c. in the twenty-eighth year, &c. at, &c. A. B. of, &c. came before me T. S. esquire, then and still being one of the justices of, &c. (see last

Conviction by a justice of the peace against a person for having a hare in his possession.

last precedent) and gave me the said justice to understand and be informed, that J. K. of, &c. on, &c. unlawfully had in his possession and did expose to sale one hare of the game of this kingdom, he the said J. K. at the time when he so exposed such hare to sale, not having lands, &c. (as in last precedent) against the form of the statute in that case made and provided: and afterwards, that is to say, on, &c. at, &c. he the said J. K. having been duly summoned in this behalf, appeareth before me the justice aforesaid, and is present in order to make his defence against the said charge contained in the said information; and having heard the same he the said J. K. is asked by me the said justice if he can say any thing for himself why he the said J. K. should not be convicted of the premises above charged upon him in form aforesaid; whereupon he the said J. K. saith, that he took up the hare in the said information mentioned at the time and place mentioned in the said information by the direction of a Mr. E. who was out coursing in K. aforesaid with greyhounds, and killed there at least six or seven hares; and being further asked by me the said justice if the said Mr. E. was then qualified to kill game, he the said J. K. saith, that he does not know whether the said Mr. E. was so qualified or not; and being further asked by me the aforesaid justice if the said Mr. E. knew of the summons with which he the said J. K. had been so served as aforesaid, he the said J. K. saith, that he told him the said E. of such summons, and of the time and place for hearing the same; and the said J. K. now here admits before me the said justice, that he the said J. K. at the time the said hare was so in his possession as aforesaid, was in nowise qualified to kill game; and the said Mr. E. doth not appear here before me the said justice, nor is any evidence adduced or offered now before me the said justice by or on the behalf of the said J. K. that the said Mr. E. was or is in any manner whatsoever qualified to kill game; and thereupon it manifestly appears to me the said justice that the said J. K. at the time when the said hare was found in his possession as aforesaid, was not in anywise qualified by the law of this realm, or in his own right to kill game, nor entitled to the said hare under any person so qualified, and that the said J. K. is guilty of the said offence charged upon him in the said information; therefore it is now here considered and adjudged by me the said justice that he the said J. K. be and is convicted of the offence, and that he hath forfeited and do forfeit the sum of five pounds for the offence aforesaid, to be distributed according to the form of the statute in that case made and provided; in witness whereof I the said justice, to this present record of the consideration aforesaid, have set my hand and seal at, &c. the twenty-first day, &c.

V. LAWES.

It does not appear that any evidence was given in this case upon the hearing of the information, except the defendant's own declarations. If there was any such evidence it should be stated, and particularly in a case like the present, where the defendant's declarations were not very strong; upon the whole, however, there is I think sufficient to induce that presumption of guilt on which the conviction may be supported; for as the defendant took upon himself to act under the direction of Mr. E. it was I think incumbent on him in exculpation of himself to shew that Mr. E. was qualified; and when that circumstance is complied with, Mr. E.'s non-attendance, although he had notice of the hearing may be very fairly presumed that Mr. E. was not qualified; upon the whole, there-

fore, I am inclined to think that this Opinion. as well as the other conviction may be supported. But as convictions of this nature are at all times open to objection when once recorded, and as returning them to the sessions is not essential to the recovery of the penalty, nor necessary unless in case of an appeal, I should not advise recording them until it is rendered absolutely necessary by some such proceeding. If this conviction should be objected to on the ground of its being on the declarations or confession of the defendant, without other evidence, the case of the King and Gage, 1. Str. 546. is an authority to prove that there may be a conviction upon a *confession*, although the statutes speak of a conviction upon oath only.

V. LAWES.

LONDON, to wit. Be it remembered that on, &c. in the twenty-ninth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king; defender of the faith, &c. and in the year of Our Lord 1789, at London aforesaid, in the parish of Saint Michael Bassishaw, in the ward of Bassishaw, in London aforesaid, Edward Jolly, of the parish of Saint Botolph Without, Bishopsgate, in London aforesaid, button-maker, in his proper person cometh before me John Hopkins, esquire, one of the aldermen of the city of London, and one of the justices of our said lord the king, assigned to keep the peace of our said lord the king within the said city, and also to hear and determine divers felonies, trespasses, and other misdeeds committed within the said city, and now here exhibiteth before me the said J. H. one of the justices aforesaid, a certain complaint and information, and therein complaineth and giveth me the said justice to understand and be informed, that William Dobbins, of Billiter-lane, in the parish of Saint Katherine, Creechurch, in the city of London, taylor, and John Greaves, of the same place, taylor, within three months next before the exhibiting this complaint and information, that is to say, on, &c. in the twenty-ninth year aforesaid, at, &c. in, &c. unlawfully did cause to be set on a certain wearing garment called a waistcoat, made of certain cotton cloth called jean and other materials, thirteen buttons bound with certain cotton cloth called jean, the same last-mentioned cotton cloth called jean being a cloth that wearing garments called waistcoats were then usually made of, against the form of the statute in such case made and provided; by reason whereof the said W. D. and J. G. have forfeited the sum of two pounds three shillings and four pence of lawful money of Great Britain, being at the rate of forty shillings for one dozen of such buttons so caused to be set on as aforesaid,

Conviction by a justice of the peace of a taylor for covering buttons with cloth same as the garment.

CONVICTIONS BEFORE JUSTICES.—TAYLORS.

said, and so in proportion for a lesser quantity of the said buttons than one dozen, to be distributed and paid (after the charges of conviction being first deducted) in manner following, that is to say, one moiety thereof to him or them who shall inform or prosecute for the same, and the other moiety thereof to the poor of the said parish of Saint Katherine, Creechurch, in the said city, where the said offence was discovered; and afterwards, to wit, on, &c. in the said twenty-ninth year of the reign of our said lord the king, at London aforesaid, that is to say, at the said parish of Saint Michael Bassishaw, in the said ward of Bassishaw, in London aforesaid, they the said W. D. and J. G. being duly summoned to appear before me the said J. H. one of the said justices of our said lord the king, assigned to keep the peace of our said lord the king in the said city, and also to hear and determine divers felonies, trespasses, and other misdeeds committed in the said city, at the time and place last aforesaid, to answer the matter of complaint contained in the said information, in their proper persons do now here, to wit, on, &c. at the said parish of, &c. duly appear before me the said J. H. one of such justices as aforesaid, in pursuance of my summons duly issued for that purpose; and the said W. D. and J. G. having heard the said complaint and information read, do now here before me the said J. H. one of such justices aforesaid, say that they are not guilty of the said offence charged upon them in and by the said complaint and information; whereupon I the said J. H. one of such justices as aforesaid, do now here, to wit, on, &c. at, &c. proceed to examine into the truth of the matter of complaint contained in the said information; and hereupon William Clay, of the parish and ward last aforesaid, in London aforesaid, journeyman taylor, and William Bradley, of the same place, journeyman taylor, two credible witnesses in this behalf, now here come in their proper persons before me the said J. H. one of such justices as aforesaid, and now here before me the said J. H. one of such justices as aforesaid, in due manner take their corporal oaths upon the Holy Gospel of God to say the truth, the whole truth, and nothing but the truth of and concerning the premises specified in the said complaint and information (I the said J. H. one of such justices as aforesaid, now here having lawful and competent authority to administer the said oaths to the said W. C. and W. B. in this behalf); and the said W. C. and W. B. being so sworn now here, to wit, on, &c. at, &c. before me the said J. H. one of such justices as aforesaid, in the presence of the said W. D. and J. G. now also here before me the said J. H. one of such justices as aforesaid, upon the oaths of them the said W. C. and W. B. as aforesaid, severally depose and swear of and concerning the premises specified in the said complaint and information as followeth, that is to say, the said W. C. upon his said oath deposeth and saith, that on or about the sixth day of, &c. he was journeyman to the said W. D. and J. G. who are master taylor, and carry on their business in Billiter-lane, in the parish of Saint Katherine, Creechurch, London, and that on or about the sixth day

day of, &c. he the said W. C. at their workshop in Billiter-lane
aforesaid, in the said parish of, &c. where they the said W. D. and
J. G. then carried on their said trade in partnership together, by
the order of one of them the said W. D. and J. G. made a cer-
tain cotton cloth jean waistcoat, and set on the said waistcoat thir-
teen buttons bound with the same cloth as the waistcoat was made
of, and that the same was done by him in the said partnership busi-
ness, but he cannot tell for whom the waistcoat was made; and the
said W. C. now here produceth before me the said J. H. one of
such justices aforesaid, a piece of the said cotton cloth called jean,
and also a button bound with the said cotton cloth called jean,
by being covered and surrounded with the same cloth, and sewed
together on the underpart of the said button; and the said W. C.
on his said oath further deposeth and saith, that the said piece of
cloth so by him produced as aforesaid was a part of the piece
of cloth of which the aforesaid waistcoat was made, and with
which the said thirteen buttons so set thereon as aforesaid was so
bound as aforesaid, and that the said cotton cloth called jean is
a cloth that wearing garments called waistcoats was then usually
made of; and the said W. B. upon his oath deposeth, that on or
about the sixth day of, &c. he was journeyman to the said W. D.
and J. G. at their workshop in Billiter-lane aforesaid, and that he
the said W. B. remembers the said W. C. making for them the
said W. D. and J. G. about the sixth day of, &c. the said waist-
coat so depose to be made as aforesaid, with covered buttons,
in the manner produced as aforesaid; and the said W. D. and
J. G. having heard the whole of the said evidence so given against
them, are now here, to wit, on, &c. in the twenty-ninth year
aforesaid, at, &c. in, &c. asked by me the said J. H. one of such
justices as aforesaid, if they or either of them have or hath any
thing to say or offer for themselves or himself why they the said
W. D. and J. G. should not be convicted of the offence so as
aforesaid, charged upon them in and by the said complaint and
information; and they the said W. D. and J. G. do now here,
to wit, on, &c. in the twenty-ninth year aforesaid, at, &c. in,
&c. produce before me the said J. H. one of such justices as afore-
said, J. B. and T. C. two witnesses on and in behalf of them the said
W. D. and J. G. and the said J. B. and T. C. being sworn upon the
Holy Gospel of God by and before me the said J. H. one of such
justices as aforesaid (I the said J. H. &c. &c.), severally depose
and swear as followeth, that is to say, the said J. B. upon his oath
depose and saith, that he the said J. B. never heard the term of
a bound button until yesterday, and that the button produced is
a covered button, that is to say, a button covered with the same
as the clothes; and the said T. C. upon his oath depose and
saith, that the said button so produced as aforesaid is a covered
button, and not a button made of cloth; whereupon all and sin-
gular the premises being now here, to wit, on, &c. in the twenty-
ninth year aforesaid, at, &c. fully understood and considered by

me the said J. H. one of such justices as aforesaid, it sufficiently appears unto me the said J. H. one of such justices as aforesaid, that the said W. G. and J. D. are guilty of the said offence so as aforesaid charged upon them in and by the said complaint and information; therefore it is now here, to wit, on, &c. in the twenty-ninth year aforesaid, at, &c. in, &c. considered and adjudged by me the said J. H. one of such justices as aforesaid, that the said W. G. and J. D. by the oaths of the said W. C. and W. B. two credible witnesses as aforesaid, are and they are hereby convicted by me the said J. H. one of such justices as aforesaid, of the offence so as aforesaid charged upon them the said W. G. and J. D. in and by the said complaint and information, according to the form of the statute in such case made and provided: And I the said J. H. one of justices as aforesaid, do now here, to wit, on, &c. in the twenty-ninth year aforesaid, at, &c. in, &c. award and adjudge that the said W. G. and J. D. for their said offence have forfeited and do pay the sum of two pounds three shillings and four pence of lawful money of Great Britain, being at the rate of forty shillings for one dozen of the said buttons so bound with cotton cloth called jean, and set on the said wearing garment called a waistcoat as aforesaid, and so in proportion for a lesser quantity of the said buttons than one dozen; and I the said J. H. one of such justices as aforesaid, do award and adjudge that the sum of thirteen shillings and four pence shall be allowed out of the said penalty and forfeiture of two pounds three shillings and four pence for the charges of this conviction, which said sum of thirteen shillings and four pence being deducted out of the said sum of two pounds three shillings and four pence will reduce the same to the sum of thirty shillings; and I the said J. H. one of such justices as aforesaid, do also award and adjudge that the said sum of thirty shillings, the said residue of the said penalty and forfeiture of two pounds three shillings and four pence, after the said charges of this conviction being first deducted, shall be distributed and paid in manner following, that is to say, one moiety thereof to the said W. J. who hath informed and prosecuted for the same, and the other moiety thereof to the poor of the said parish of Saint Katherine, Creechurch, where the said offence was discovered, according to the form of the statute in such case made and provided; in witness whereof I the said J. H. one of such justices as aforesaid, to this record of conviction do set my hand and seal, in the said parish of Saint Michael Bassishaw, in the said ward of Bassishaw, in London aforesaid, this fifteenth day of, &c. in the twenty-ninth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and in the year of Our Lord 1789.

THE KING } BE it remembered that on the sixth day of Au- Borough of
against } gust, in the year of Our Lord 1791, at the Guild- Newport, in the
J. MAJOR. } hall of and within the borough of Newport, in the Isle of Wight,
the county of Southampton, John Hearn, in the parish of Newchurch, in the said island and county, yeoman, come before us William Clarke, esquire, Thomas Dickenson, esquire, and William Dickenson, clerk, three of his majesty's justices of the peace for the said borough, and giveth us to understand and be informed, that Joseph Major the younger, of the parish of Carisbrooke, in the said island, miller, did on the twenty-third day July last, at the parish of Newport, within the said borough, unlawfully buy of and from one Thomas Gleed, of Carisbrooke aforeaid, yeoman, forty bushels of wheat unground by another and different bushel and measure than that which is agreeable to the standard marked in his majesty's exchequer, commonly called the Winchester measure, containing eight gallons to the bushel (containing no more or less), that is to say, by a certain other pretended bushel then and there containing eight gallons and a pint, contrary to the form and the statute in such case and provided; whereby and by force of the statute in that case made and provided, the said Joseph Major forfeited for his said offence the said quantity of wheat so by him bought as aforeaid, or the value thereof; and thereupon afterwards, on the said sixth day of August, in the year aforeaid, the said J. M. having been duly summoned to answer the charge aforeaid, personally appears for that purpose before us the said justices, at the Guildhall aforeaid, within the said borough: And the said Joseph Major having heard the said information, and being asked if he can say any thing for himself why he should not be convicted of the premises above charged upon him, pleads that he is not guilty thereof; whereupon the said justices do proceed to examine into the truth of the said complaint in the said information mentioned in the presence of the said J. Hearn and J. Major; and thereupon on the day and year last aforeaid, one Cole and one John Meads, the inspectors of the prices of corn and grain in the town of Newport aforeaid, and one Hearn of , credible witnesses in this behalf, in their own proper persons come before us the said justices, and the said Cole and Hearn are severally sworn by us upon the Holy Gospel to speak the truth, the whole truth, and nothing but the truth touching the matters contained in the said information, and we offer to administer such oath as aforeaid to the said John Mead, but the said J. Major looking at a certain paper writing produced by the said J. Mead dispenses with the administration of such oath to him, and admits the said paper writing to have been written by him the said J. Major, and regularly declared to the said J. Meads as such inspector as aforeaid, upon the day of the date thereon; whereupon the said paper writing is read and exhibited to us, and is in the words, letters, and figures following:

Conviction for selling corn by other than the Winchester bushel.

CONVICTIONS BEFORE JUSTICES.

Week, ending this day
Wheat 27 qrs. 3 bush.

Newport Market, 23d July 1791.
corn received by customary measure.
cost 56l. 7s. 3d.

By J. MAJOR.

And the said Cole, being so sworn as aforesaid, deposeth and saith, that the words customary measure import a customary bushel or measure commonly used in the Isle of Wight, which is different from the standard or Winchester bushel, and contains about a pint more than eight gallons; and the said Hearn, being so sworn as aforesaid, deposeth and saith, that he is to the said J. Major, that he the said J. Major, on the said twenty-third day of July, bought from the aforesaid Thomas Gleed, in Newport-market, within the parish of Newport, a load of wheat, at the price of ten pounds fifteen shillings; that a load of wheat regularly contains forty bushels, but he the said Hearn understands that forty customary bushels of the Isle of Wight are about equal to forty-one exchequer bushels; and he further says, that the load of wheat so bought by the said J. Major from the said Thomas Gleed was a load of wheat agreeable to the custom of the said Isle of Wight, containing about forty-one exchequer bushels; and hereupon the said J. Major being asked by us the said justices if he has or can procure any evidence to contradict, impeach, or explain the proofs aforesaid, or to shew that he bought the said wheat by the Winchester bushel or standard measure, does not produce or alledge that he can at any future time procure any other evidence touching the premises; whereupon it appearing to us the said justices that the said J. Major is guilty of the premises charged upon him in and by the said information, therefore it is adjudged by us the said justices that the said J. Major be convicted, and he is hereby accordingly convicted by us of the offence so charged upon him; and we do further adjudge that the said J. Major hath for his said offence forfeited the sum of ten pounds fifteen shillings, being the value of the said quantity of wheat so by him bought as aforesaid, to be applied and distributed according to law; in witness whereof we have to this record of conviction put our respective hands and seals, at the borough of Newport aforesaid, on the said sixth day of August, in the year of Our Lord 1791.

This conviction was affirmed, 4. T. R. 750.

 CERTIORARI.

Writ of Certiorari to bring up the record of conviction of murder, which

GEORGE the Third, by the grace of God, of, &c. to the justices of the peace of oyer and terminer, and gaol delivery of our gaol of Newgate, in and for the city of Bristol and county of

was pleaded to an action on premises and replication of *nil nisi record.*

the

the same city, greeting : Whereas one John Lovelass, gentleman, lately, to wit, in Trinity term, in the twenty-fourth year of our reign, by bill without our writ, impleaded one George Groom in our court before us at Westminster, in the county of Middlesex, in a certain plea of trespass upon the case upon promises, for the non-performance of certain promises and undertakings then supposed to be lately made by the said George to the said John, to which the said George has for plea in bar alledged as to the promise and undertaking in the said first count of the said declaration mentioned, in that plea mentioned, that is to say, by a certain inquisition taken at the sessions of the peace of oyer and terminer, and general gaol delivery of our gaol of Newgate, in the city of Bristol, and county of the same city, held in the Guildhall of the said city, within the same city, on Saturday, the twenty-fifth day of April, in the eighteenth year of our reign, before J. D. mayor of the said city, J. D. recorder of the said city, M. S. one of the aldermen of the said city, and others their associates, our justices assigned by virtue of letters patent of our lady Anne, of Great Britain, &c. late queen, granted and confirmed to the mayor, burgesses, and commonalty of the city aforesaid and their successors; and by which said letters patent the said late queen willed that the mayor, recorder, and aldermen of the city aforesaid for the time being, or any three or more of them (whereof the said mayor and recorder for the time being to be two) should be such justices to enquire by the oaths of good and lawful men of the county of the city aforesaid, as well within liberties as without, by whom the truth of the case might be the better known, of all treasons, murders, ravishments of women, and other felonies whatsoever, as also of all trespasses and misdemeanors within the said precincts and liberties of the city of B. aforesaid, by whomsoever or howsoever done, perpetrated, or committed, and also all indictments whatsoever before our same justices, or any of our late justices, or any of them within the county of the city aforesaid, taken to hear and determine, and our gaol of the county of the city of B. aforesaid, of the prisoners therein being to deliver, the said J. L. was convicted of the wilful murder of A. B. and was adjudged by the court there to be hanged until he was dead, on Wednesday, the twenty-ninth of April, in the eighteenth year of our reign, and his body to be delivered to R. S. surgeon, to be dissected and anatomized, as more fully appears by the record and proceedings thereof; to which said plea of the said George he the said John has replied, that there is not any such record of the conviction and attainder of him the said John, as the said George has in pleading alledged; and the said George hath joined issue thereupon, and saith that there is such record of such conviction and attainder now remaining in your custody; therefore we command you that you, some or one of you do search and inspect the record and proceedings before you remaining, and what you shall find by the record and proceedings of the said conviction and attainder

as

as aforesaid, as fully and entirely as the same remains in your custody, you certify and send to us at Westminster, on under your seals, or the seal of one of you, together with this writ; witness William, earl of Mansfield, at Westminster, the day of in the year of our reign.

GEO. WOOD.

APPEAL.

Replication to a plea to a writ of appeal of murder that the writ was sued, &c. before a former conviction of manslaughter.
Smith v. Taylor, 11. Geo. 3.

AND the aforesaid plaintiff, by A. B. his attorney, comes, and as to the aforesaid plea of the said defendant of the conviction aforesaid, by him in manner and form aforesaid pleaded, says, that he by any thing in that plea contained ought not to be barred from having his aforesaid appeal against the said defendant, because protesting that there is not any such record as the said defendant hath above in pleading in bar of the appeal aforesaid alledged; for replication in this behalf the said plaintiff says, that he sued out his original writ of appeal in this case against the said defendant long before the said defendant was convicted of manslaughter, as is alledged in the said plea of the said defendant, to wit, on, &c. in the eleventh year, &c. to wit, at, &c. as by the said appeal remaining here of record appears, and this, &c. by the said record; wherefore, &c. if he by reason of the premises ought to be barred from having his said appeal maintained against the said defendant.

J. MORGAN.

Writ of appeal of death, &c.

GEORGE the Third, by the grace of God, &c. &c. to the sheriff of S. greeting: Forasmuch as A. C. widow, who was the wife of J. C. late of, &c. in your county of S. gentleman, hath given us security that her suit shall be prosecuted by J. D. and R. R. gentlemen; therefore we command you that you attach A. B. late of, &c. in, &c. by his body, according to the law and custom of England, so that you may have him before us (a) wheresoever we shall then be in England, to answer the said A. C. of the death of the aforesaid J. C. heretofore her husband, whereof she appealeth him the said A. B. and have you here this writ; witness ourself at Westminster, the day of (b) in the eleventh year of our reign.

(a) "A general return day."

(b) "To be tested the day sued out."

A plea in abatement of *ne unguis accouple in laial matrimony*, in an appeal of murder.

AND the said defendants say, that the said plaintiff ought not to have or maintain the said bill or writ of appeal against them the said defendants, because they say that the said plaintiff was never

never joined in lawful matrimony with, or lawfully married to the said J. P. deceased; and this, &c. where and when, &c. wherefore they the said defendants pray judgment if the said plaintiff ought to have or maintain her said bill or writ of appeal thereupon against them the said defendant; and as to the said felony and murder the said defendants say, that they are in nowise guilty thereof, and thereupon of good and ill they put themselves upon the country, and the said defendant doth the like, &c.

And the said plaintiff, as to the said plea of the said defendants above pleaded in bar of the said bill or writ of appeal of the said plaintiff, says, she ought not by reason of any thing in that plea alledged to be precluded from having or maintaining her said bill or writ of appeal against them, because she says, that she the said plaintiff was at the parish of, &c. in the county of, &c. within the diocese of, &c. joined in lawful matrimony with, or lawfully married to the said J. P. deceased; and this, &c. where and when as the court here shall consider thereof, and the said defendants do the same, &c.

Replication to the last plea.

GEORGE the Third, by the grace of God, &c. to the Sheriff of Surry, greeting: Forasmuch as Smith, widow, who was the wife of James Smith, late of the parish of Saint Mary, Lambeth, in your county of Surry, yeoman, hath given us security that her suit shall be prosecuted by of , and of (names and additions of real pledges, with their degree or mystery, *though Mr. Morgan did not think real pledges necessary*); therefore we command you that you attach John Taylor, late of the parish of Saint Mary, Lambeth, in your county of Surry (his addition as in the indictment), by his body, according to the law and custom of England, so that you may have him before us, on , (a general return) wheresoever we shall then be in England, to answer the aforesaid Smith of the death of the said James Smith heretofore her husband, whereof she appealeth him the said John Taylor, and have you there then this writ; witness ourself at Westminster, the day of in the eleventh year of our reign (to be tested the day sued out). N. B. the cursitors office will inform you as to the stamp of the writ.

A writ of appeal of death.

Hilary Term, 11. Geo. III.

ELIZABETH SMITH, WIDOW, } And the aforesaid E. Smith, Replication to
against } by Robert Crispin her attor- a plea to a writ
JOHN TAYLOR. } ney, comes, and as to the afore- of appeal of
said plea of the said John Taylor of the conviction aforesaid, by death, that the
him in manner and form aforesaid pleaded, saith, that she by any writ was sued
thing in that plea contained ought not to be barred from having out before the
her aforesaid appeal against the said John Taylor, because pro- former con-
testing that there is not any such record as the said John Taylor viction of man-
hath above in pleading in bar of the appeal aforesaid alledged; slaughter.
I for

INFORMATION.—QUO WARRANTO.

for replication in this behalf, said Elizabeth saith, that she sued out her original writ of appeal in this case against said John Taylor long before the said John Taylor was convicted of manslaughter, as is alledged in said plea of said John Taylor, to wit, on the fourth day of December, in the eleventh year of the reign of his present majesty, to wit, at the parish of Saint Mary, Lambeth, aforesaid, in said county of Surry, as by said writ of appeal remaining here of record appears, and this she is ready to verify by said record; wherefore she prays judgment, if she by reason of the premises ought to be barred from having her said appeal maintained against said John Taylor, &c.

J. MORGAN.

QUO WARRANTO.

Information *quo*
warranto.

Defendant u-
surps the office
of alderman in
the borough of
Cambridge.

CAMBRIDGESHIRE, to wit. Be it remembered that J. T. esquire, coroner and attorney of our present sovereign lord the now king, in the court of our said lord the king before the king himself, who for our said lord the king in this behalf prosecutes, in his own proper person came here into court of our said lord the king before the king himself, at Westminster, on, &c. last past, and for our said lord the king, at the relation of W. F. of, &c. according to the form of the statute in such case made and provided, brought into the said court of our said lord the king, before the king himself then and there, a certain information, in nature of a *quo warranto*, against S. F. late of, &c. which said information followeth in these words, that is to say, Cambridge-shire, to wit: Be it remembered that J. T. esquire, coroner and attorney of our present sovereign lord the king, before the king himself, who for our said lord the king prosecutes in this behalf, in his own proper person cometh here into the court of our said lord the king, before the king himself, at Westminster, on, &c. in this same term, and for our said lord the king, at the relation of W. F. of, &c. according to the form of the statute in such case made and provided, giveth the court here to understand and be informed, that the borough of Cambridge, in the county of Cambridge, now is, and for the space of twenty years last past and upwards hath been an ancient borough, and that the mayor, bailiffs, and burgeses of the said borough now are, and during all the time aforesaid have been one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the borough of Cambridge, in the county of Cambridge, that is to say, at the borough of C. aforesaid, and that within the said borough, there and for and during all the time aforesaid, there have been and now ought to be a mayor, twelve aldermen, twenty-four of the common council, four bailiffs, and

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an indefinite number of burgesſes at the ſaid borough; and that the office of an alderman of the ſaid borough for and during all the time aforeſaid hath been and ſtill is a public office, and an office of great truſt and pre-eminence within the ſaid borough, touching the rule and government of the ſaid borough, and the adminiſtration of public juſtice within the ſame borough, to wit, at the borough of Cambridge aforeſaid; and that S. F. late of Cambridge, in the county of C. aforeſaid, gentleman, on the day of , in the twenty-ſeventh year of the reign of our ſaid preſent ſovereign lord George the Third, &c. and from thence continually afterwards, to the time of exhibiting this information at the borough aforeſaid, in the county aforeſaid, hath there uſed and exerciſed, and ſtill doth there uſe and exerciſe without any legal warrant, royal grant, or right whatſoever, the office of an alderman of the ſaid borough, and for and during all the time laſt above-mentioned hath there claimed, and ſtill doth there claim, without any legal warrant, royal grant, or right whatſoever, to be one of the aldermen of the ſaid borough, and to have, uſe, and enjoy all the liberties, privileges, and franchises to the office of an alderman of the ſaid borough belonging and appertaining, which ſaid office, liberties, privileges, and franchises, he the ſaid S. F. for and during all the time laſt above-mentioned, upon our ſaid lord hath uſurped and ſtill doth uſurp, without any legal warrant, royal grant, or right whatſoever, that is to ſay, at the borough of Cambridge aforeſaid, in the ſaid county, in contempt of our ſaid lord the king, to the great damage and prejudice of his royal prerogative, and alſo againſt his crown and dignity; whereupon the ſaid coroner and attorney of our ſaid lord the king, for our ſaid lord the king prayeth the conſideration of the court here in the premiſes, and that due proceſs of law may be awarded againſt him the ſaid Samuel Francis in this behalf, to make him answer to our ſaid lord the king, and ſhew by what warrant or authority he claimeth to have, uſe, and enjoy the office, liberties, privileges, and franchises aforeſaid; wherefore the ſheriff of the ſaid county of Cambridge was commanded that he ſhould not forbear by reaſon of any liberty in his bailiwick, but that he ſhould cauſe him to come to answer to our ſaid lord the king touching and concerning the premiſes aforeſaid: And now, that is to ſay, on Friday next after the morrow of the Holy Trinity, before our preſent ſovereign lord the king, at Weſtmiſter, cometh the aforeſaid S. F. by A. B. his clerk in court, and having heard the ſaid information, complains that he is by colour thereof grievouſly vexed and diſquieted, and this unjuſtly, be-
 cauſe proteſting that the ſaid information and the matters therein contained are not ſufficient in law, to which ſaid information the ſaid S. is not bound by the law of the land to answer; yet for plea in this behalf the ſaid Samuel ſays, that true it is that the ſaid borough of C. in the ſaid county of C. now is, and for the ſpace of twenty years laſt paſt and upwards hath been an ancient borough, and that the mayor, bailiffs, and burgesſes of
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the said borough now are, and during all the time aforesaid have been one body corporate in deed, fact, and name, by the name of the mayor, bailiffs, and burgessees of the borough of Cambridge, in the county of C. to wit, at the borough of C. aforesaid, and that within the said borough there are, and during all the time aforesaid there have been, and now ought to be, a mayor, twelve aldermen, twenty-four of the common council, four bailiffs, and an indefinite number of burgessees of the said borough, and that the office of an alderman for the said borough, for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough touching the rule and government of the said borough, and the administration of public justice within the same borough, as in the said information is also suggested; but the said S. further says, that the borough of Cambridge, and from time whereof the memory of man is not to the contrary, hath been an ancient town and borough, and that the burgessees of the same borough during all the said time immemorial have been, and still are a body corporate and politic in deed, fact, and name, by various names of incorporation, and amongst others by the above-mentioned name of mayor, bailiffs, and burgessees of the borough of C. in the county of C. that is to say, at the borough of C. aforesaid, and the said S. further says, that within the said borough, from time whereof, &c. there have been, and of right ought to have been a mayor, twelve aldermen, twenty-four common council, four bailiffs, and an indefinite number of burgessees of the said borough, to wit, at the borough of C. and that the aldermen of the said borough, being respectively duly elected and admitted into the office of an alderman as hereinafter is mentioned, during all the said time immemorial, have severally and respectively held and enjoyed their said office for and during their respective natural lives, or until they should be severally and respectively removed therefrom, to wit, at, &c.: And the said Samuel further says, that within the said borough there now is, and from time whereof the memory of man is not to the contrary there hath been an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said body of aldermen of the said borough of C. by the death of any one of such aldermen or otherwise, the mayor of the said borough for the time being, and the residue of the aldermen of the said borough, or the major part of such mayor and residue of the said aldermen who have been present at the next general common day after such vacancy hath happened, elected, and have been used and accustomed to elect, and of right ought to have elected, one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased or otherwise creating such vacancy :: And the said Samuel further says, that within the said borough of C. there now is, and from time whereof, &c. there hath been a certain other ancient and laudable custom used and approved of within the

the said borough of C. that is to say, that the mayor for the time being hath had, and hath been used and accustomed to have, and of right ought to have the casting vote in all cases of equality of voices on the election of aldermen of the said borough of C. and the person for whom the mayor hath thus given his casting vote hath been, and hath been held and reputed to be lawfully elected unto such office of alderman, to wit, at, &c. : And the said S. further says, that before the meeting hereinafter mentioned, to wit, on, &c. at the borough of C. aforesaid, one J. P. the elder, who was then and there an alderman of the said borough of C. died, whereby the place of an alderman of the said borough then and there became vacant until the election of the said S. hereinafter next mentioned : And the said S. further says, that on the day of in the twenty-seventh year, &c. being the next general common day after such vacancy had happened, a meeting of the mayor and surviving aldermen of the said borough of C. was held at the town-hall of the said borough for the purpose of electing an alderman in the room of the said J. P. the elder, then being deceased as aforesaid, and that at that meeting one J. H. the elder, then mayor and senior alderman of the said borough of C. according to the usage and custom of the said borough of C. proposed and nominated the said S. then being one of the common council of the said borough of C. as a fit person to be chosen an alderman of the said borough in the room of the said J. P. the elder, then being deceased as aforesaid, the said J. F. the elder, then mayor and alderman of the said borough, and J. M. esquire, E. J. J. B. J. F. the younger, and W. G. then and there being five other aldermen of the said borough of C. then and there gave their votes or voices for the election of the said S. into the said place and office of an alderman of the said borough, in the room of the said J. P. the elder ; and J. N. J. F. J. W. J. M. T. B. and J. P. the younger, then being also six other aldermen of the said borough of C. then and there gave their votes or voices against the election of the said S. whereupon there appearing then and there on the said election to be an equality of votes or voices of the mayor or aldermen then present in favour of and against the election of the said S. to the office of an alderman of the said borough of C. six of them the said mayor and aldermen then present having given their votes or voices for the election of the said S. and six of the said aldermen having given their votes or voices against the election of the said S. the said J. F. the elder, as mayor of the said borough of C. according to the said ancient usage and custom of the said borough, then and there gave his casting vote or voice in favour of the said S. and for the election of the said S. into the said place or office, by means whereof the said S. was then and there duly elected an alderman of the said borough of C. and the said J. F. the elder, as mayor as aforesaid, did thereupon declare the said S. to be duly elected an alderman of the said borough of C. in the room of the said J. P. the elder, then deceased, and the said Samuel being elected and made an alderman
of

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bye-law.

of the said borough of C. as aforesaid, to wit, on the twenty-fourth of April, in the twenty-seventh year, &c. at the borough of C. aforesaid, did in due manner take an oath for the due execution of his duty of such alderman of the said borough, and did then and there also take the corporal oath called the oath of allegiance, and the corporal oath called the oath of supremacy, before the said J. F. the elder, as mayor as aforesaid, who then and there had a lawful and competent authority to administer the same in that behalf, and thereupon he the said S. was then and there duly admitted into the said place and office of one of the aldermen of the said borough of C. by reason of which said premises he the said S. then and there became, and was, and still is one of the aldermen of the said borough, to wit, at, &c. by virtue whereof the said S. for all the time in the said information in that behalf mentioned, hath used and exercised, and still doth use and exercise the said office of alderman of the said borough, and hath there claimed and yet doth there claim to be one of the aldermen of the said borough of C. and to have, use, and enjoy all the liberties, privileges, and franchises to the said office of an alderman of the said borough of C. belonging and appertaining, as it was lawful for him to do, without this that the said S. hath usurped the said office, liberties, and privileges, and franchises upon our present sovereign lord the now king, in manner and form as by the said information is above supposed, all which said several matters and things he the said S. is ready to verify, as the court shall consider; whereupon he prays judgment, and that the aforesaid office, liberties, privileges, and franchises in form aforesaid claimed by him the said S. may for the future be allowed to him, and that he may be dismissed and discharged by the court here of and from the premises aforesaid: And for further plea in this behalf the said S. by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, protesting, &c. &c. (same as first plea as far as this mark ÷): And the said S. further says, that heretofore, that is to say, on the day of 1786, at, &c. the said mayor, bailiffs, and burgeses of the said borough, made, constituted, and ordained a certain order, bye-law, or constitution of the said corporation, whereby they ordained and ordered that from thenceforth the mayor for the time being of the said borough, should have the casting vote in all cases of equality of votes or voices amongst the electors of the election amongst other officers and aldermen of the said corporation of C.: And the said Samuel further says, that before the meeting hereinafter mentioned, to wit, on, &c. in the twenty-seventh year, &c. of our present sovereign lord the now king, at the borough of C. aforesaid, one J. P. the elder, who was then and there an alderman of the said borough of C. died, whereby the place of an alderman of the said borough then and there became vacant, and the same continued so vacant until the election of the said S. hereinafter next mentioned: And the
said

said Samuel further says, that on the twenty-fourth April, in the
 twenty-seventh year, &c. being the next general common day
 after such vacancy had happened, a meeting of the mayor and
 surviving aldermen of the said borough of C. was held at the
 town hall of the said borough, for the purpose of electing an al-
 derman in the room of the said J. P. the elder, then being dead
 as aforesaid, and that at that meeting one J. F. the mayor and
 senior alderman of the said borough of C. according to the usage
 and custom of the said borough, proposed and nominated the said
 S. then being one of the common council of the said borough of
 C. as a fit person to be chosen an alderman of the said borough
 in the room of the said J. P. the elder, deceased as aforesaid, and
 the said J. F. the elder, then mayor and alderman of the said
 borough, and J. M. esquire, &c. &c. then and there being five
 other aldermen of the said borough of C. then and there gave
 their votes or voices for the election of the said S. into the said place
 and office of alderman of the said borough, in the room of the
 said J. P. the elder; and J. N. &c. then and there being also six
 other aldermen of the said borough of C. then and there gave
 their votes or voices against the election of the said S.; where-
 upon there appearing then and there in the said election to be an
 equality of votes or voices of the mayor and aldermen then present
 in favour of and against the election of the said S. to the said
 office of alderman of the said borough of C. six of them the said
 mayor and aldermen then present having given their votes or
 voices for the election of the said S. and six of them the said alder-
 men having given their votes or voices against the election of the
 said S. the said J. F. the elder, as mayor of the said borough of
 C. according to the aforesaid order, bye law, or constitution of
 the said corporation of the said borough of C. then and there
 gave his casting vote or voice in favour of the said S. and for the
 election of the said S. into the said place or office, by means
 whereof the said S. was then and there duly elected an alderman
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough as aforesaid, did thereupon declare the said
 S. to be then and there duly elected an alderman of the said
 borough of C. in the room of the said J. P. the elder, then de-
 ceased, and the said S. so being elected and made an alderman of
 the said borough, afterwards, to wit, on the twenty-fourth of
 April, in the twenty-seventh year aforesaid, at the borough of
 Cambridge aforesaid, did in due manner take an oath for the
 execution of his duty of such alderman of the said borough, and
 did then and there also take the corporal oath commonly called
 the oath of allegiance, and the corporal oath commonly called the
 oath of supremacy, before the said J. F. the elder, the mayor as
 aforesaid, who then and there had lawful and competent authority
 to administer the same in that behalf; and thereupon the said S.
 was then and there duly admitted into the said place and office of
 one of the aldermen of the said borough of C. by reason of

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which premises, &c. (same as in first plea from hence to the end) thereupon he prays judgment, &c.

Geo. Wood.

Replication, taking issue on all the facts.

And the said J. T. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, being present here in court, and having heard the said plea of the said S. by him first above pleaded in bar read for our said lord the king, saith, that for any thing by him therein alledged our said present sovereign lord the king ought not to be barred from having his aforesaid information against him, because protesting that the said plea of the said S. first above pleaded, and the matters therein contained are not sufficient in law to preclude our said present sovereign lord the king from having his aforesaid information against the said Samuel; for replication nevertheless in this behalf the said coroner and attorney of our said lord the king, for our said lord the king further saith, that within the said borough there now is not, and from time whereof the memory of man is not to the contrary, there hath not been an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said borough of aldermen of the said borough of C. by the death of any one of such aldermen or otherwise, the mayor of the borough for the time being, and the residue of the aldermen who have been present at the next general common day after such vacancy hath happened, have at such next general common day after such vacancy hath happened elected, and have used and been accustomed to elect, and of right ought to have elected one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased, or otherwise creating such vacancy as the said S. hath in his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, &c. and the said S. F. doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that within the said borough of C. there now is not, and from time whereof, &c. hath not been a certain ancient and laudable custom used and approved of within the said borough of C. that is to say, that the mayor for the time being hath had, and hath been used and accustomed to have, and of right ought to have the casting vote in all cases of equality of voices on the election of aldermen of the said borough of C. and that the person for whom the mayor hath thus given his casting vote hath been, and hath been held and reputed to be lawfully elected into such office of alderman, as he the said S. hath in his said plea above alledged, and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that J. F. the elder, in the said plea mentioned,

tioned, was not, at the time of the said meeting for the purpose of electing an alderman as in the said plea is mentioned, senior alderman of the said borough, in manner and form as the said S. hath in and by his plea above alledged, and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king saith, that the said J. F. the elder, in the said plea mentioned did not, according to the usage and custom of the said borough of C. in that behalf, propose and nominate the said S. in manner and form, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that at the time of the said supposed nomination of the said S. as a fit person to be chosen an alderman of the said borough, the said S. was not one of the common council of the said borough of C. in manner, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that there did not appear to be, nor was there any such equality of votes or voices in the said election in favour of the election of the said Samuel to the office of alderman of the said borough of C. aforesaid, in manner and form as the said Samuel hath above alledged, and this, &c.: And the said coroner, &c. further saith, that the said J. F. the elder did not give a casting vote or voice in favour of the said S. and for the electing of the said S. into the said place and office of an alderman of the said borough, in manner and form, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not elected an alderman of the said borough of C. in manner and form, &c. and this, &c.: And the said coroner and attorney, &c. further saith, that the said S. did not take an oath for the due execution of his duty of an alderman of the said borough, nor take the corporal oath commonly called the oath of allegiance, and the corporal oath commonly called the oath of supremacy before the said J. F. the elder, mayor of the said borough of C. in manner, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not admitted into the said place and office of one of the said aldermen of the said borough of C. &c. in manner, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not, nor is one of the aldermen of the said borough, in manner, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, being present here in court, and having heard the said last plea of the said S. by him lastly above pleaded read in manner lastly above pleaded in bar, saith, that for any thing by him in his said last plea alledged, our said sovereign lord the king ought not to be barred from having his aforesaid information against him, because protesting (insufficiency, &c.); for replication, nevertheless in this behalf the said coroner and attorney of our said lord the king, for our said lord the king further saith, that within the said borough there now is not, nor hath been, from the time whereof the memory of man

which premises, &c. (same as in first plea from hence to the end) thereupon he prays judgment, &c.

Geo. Wood.

Replication, taking issue on all the facts.

And the said J. T. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, being present here in court, and having heard the said plea of the said S. by him first above pleaded in bar read for our said lord the king, saith, that for any thing by him therein alledged our said present sovereign lord the king ought not to be barred from having his aforesaid information against him, because protesting that the said plea of the said S. first above pleaded, and the matters therein contained are not sufficient in law to preclude our said present sovereign lord the king from having his aforesaid information against the said Samuel; for replication nevertheless in this behalf the said coroner and attorney of our said lord the king, for our said lord the king further saith, that within the said borough there now is not, and from time whereof the memory of man is not to the contrary, there hath not been an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said borough of aldermen of the said borough of C. by the death of any one of such aldermen or otherwise, the mayor of the borough for the time being, and the residue of the aldermen who have been present at the next general common day after such vacancy hath happened, have at such next general common day after such vacancy hath happened elected, and have used and been accustomed to elect, and of right ought to have elected one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased, or otherwise creating such vacancy as the said S. hath in his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, &c. and the said S. F. doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that within the said borough of C. there now is not, and from time whereof, &c. hath not been a certain ancient and laudable custom used and approved of within the said borough of C. that is to say, that the mayor for the time being hath had, and hath been used and accustomed to have, and of right ought to have the casting vote in all cases of equality of voices on the election of aldermen of the said borough of C. and that the person for whom the mayor hath thus given casting vote hath been, and hath been held and reputed to be lawfully elected into such office of alderman, as he the said S. hath in his said plea above alledged, and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that J. F. the elder, in the said plea

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for replication in this behalf, said Elizabeth saith, that she sued out her original writ of appeal in this case against said John Taylor long before the said John Taylor was convicted of manslaughter, as is alledged in said plea of said John Taylor, to wit, on the fourth day of December, in the eleventh year of the reign of his present majesty, to wit, at the parish of Saint Mary, Lambeth, aforesaid, in said county of Surry, as by said writ of appeal remaining here of record appears, and this she is ready to verify by said record; wherefore she prays judgment, if she by reason of the premises ought to be barred from having her said appeal maintained against said John Taylor, &c.

J. MORGAN.

QUO WARRANTO.

Information *quo*
warranto.

Defendant u-
surps the office
of alderman in
the borough of
Cambridge.

CAMBRIDGESHIRE, to wit. Be it remembered that J. T. esquire, coroner and attorney of our present sovereign lord the now king, in the court of our said lord the king before the king himself, who for our said lord the king in this behalf prosecutes, in his own proper person came here into court of our said lord the king before the king himself, at Westminster, on, &c. last past, and for our said lord the king, at the relation of W. F. of, &c. according to the form of the statute in such case made and provided, brought into the said court of our said lord the king, before the king himself then and there, a certain information, in nature of a *quo warranto*, against S. F. late of, &c. which said information followeth in these words, that is to say, Cambridgeshire, to wit: Be it remembered that J. T. esquire, coroner and attorney of our present sovereign lord the king, before the king himself, who for our said lord the king prosecutes in this behalf, in his own proper person cometh here into the court of our said lord the king, before the king himself, at Westminster, on, &c. in this same term, and for our said lord the king, at the relation of W. F. of, &c. according to the form of the statute in such case made and provided, giveth the court here to understand and be informed, that the borough of Cambridge, in the county of Cambridge, now is, and for the space of twenty years last past and upwards hath been an ancient borough, and that the mayor, bailiffs, and burgeses of the said borough now are, and during all the time aforesaid have been one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the borough of Cambridge, in the county of Cambridge, that is to say, at the borough of C. aforesaid, and that within the said borough, there and for and during all the time aforesaid, there have been and now ought to be a mayor, twelve aldermen, twenty-four of the common council, four bailiffs, and

an indefinite number of burgesſes at the ſaid borough; and that the office of an alderman of the ſaid borough for and during all the time aforeſaid hath been and ſtill is a public office, and an office of great truſt and pre-eminence within the ſaid borough, touching the rule and government of the ſaid borough, and the adminiſtration of public juſtice within the ſame borough, to wit, at the borough of Cambridge aforeſaid; and that S. F. late of Cambridge, in the county of C. aforeſaid, gentleman, on the day of _____, in the twenty-ſeventh year of the reign of our ſaid preſent ſovereign lord George the Third, &c. and from thence continually afterwards, to the time of exhibiting this information at the borough aforeſaid, in the county aforeſaid, hath there uſed and exerciſed, and ſtill doth there uſe and exerciſe without any legal warrant, royal grant, or right whatſoever, the office of an alderman of the ſaid borough, and for and during all the time laſt above-mentioned hath there claimed, and ſtill doth there claim, without any legal warrant, royal grant, or right whatſoever, to be one of the aldermen of the ſaid borough, and to have, uſe, and enjoy all the liberties, privileges, and franchises to the office of an alderman of the ſaid borough belonging and appertaining, which ſaid office, liberties, privileges, and franchises, he the ſaid S. F. for and during all the time laſt above-mentioned, upon our ſaid lord hath uſurped and ſtill doth uſurp, without any legal warrant, royal grant, or right whatſoever, that is to ſay, at the borough of Cambridge aforeſaid, in the ſaid county, in contempt of our ſaid lord the king, to the great damage and prejudice of his royal prerogative, and alſo againſt his crown and dignity; whereupon the ſaid coroner and attorney of our ſaid lord the king, for our ſaid lord the king prayeth the conſideration of the court here in the premiſes, and that due proceſs of law may be awarded againſt him the ſaid Samuel Francis in this behalf, to make him answer to our ſaid lord the king, and ſhew by what warrant or authority he claimeth to have, uſe, and enjoy the office, liberties, privileges, and franchises aforeſaid; wherefore the ſheriff of the ſaid county of Cambridge was commanded that he ſhould not forbear by reaſon of any liberty in his bailiwick, but that he ſhould cauſe him to come to answer to our ſaid lord the king touching and concerning the premiſes aforeſaid: And now, that is to ſay, on Friday next after the morrow of the Holy Trinity, before our preſent ſovereign lord the king, at Weſtminſter, cometh the aforeſaid S. F. by A. B. his clerk in court, and having heard the ſaid information, complains that he is by colour thereof grievouſly vexed and diſquieted, and this unjuſtly, be- cauſe proteſting that the ſaid information and the matters therein contained are not ſufficient in law, to which ſaid information the ſaid S. is not bound by the law of the land to answer; yet for plea in this behalf the ſaid Samuel ſays, that true it is that the ſaid borough of C. in the ſaid county of C. now is, and for the ſpace of twenty years laſt paſt and upwards hath been an ancient borough, and that the mayor, bailiffs, and burgeſſes of the

1ſt plea, that fix voted on each ſide, defendant had caſting vote according to cuſtom, where- by, &c.

INFORMATION.

the said borough now are, and during all the time aforesaid have been one body corporate in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the borough of Cambridge, in the county of C. to wit. at the borough of C. aforesaid, and that within the said borough there are, and during all the time aforesaid there have been, and now ought to be, a mayor, twelve aldermen, twenty-four of the common council, four bailiffs, and an indefinite number of burgeses of the said borough, and that the office of an alderman for the said borough, for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough touching the rule and government of the said borough, and the administration of public justice within the same borough, as in the said information is also suggested; but the said S. further says, that the borough of Cambridge, and from time whereof the memory of man is not to the contrary, hath been an ancient town and borough, and that the burgeses of the same borough during all the said time immemorial have been, and still are a body corporate and politic in deed, fact, and name, by various names of incorporation, and amongst others by the above-mentioned name of mayor, bailiffs, and burgeses of the borough of C. in the county of C. that is to say, at the borough of C. aforesaid, and the said S. further says, that within the said borough, from time whereof, &c. there have been, and of right ought to have been a mayor, twelve aldermen, twenty-four common council, four bailiffs, and an indefinite number of burgeses of the said borough, to wit, at the borough of C. and that the aldermen of the said borough, being respectively duly elected and admitted into the office of an alderman as hereinafter is mentioned, during all the said time immemorial, have severally and respectively held and enjoyed their said office for and during their respective natural lives, or until they should be severally and respectively removed therefrom, to wit, at, &c.: And the said Samuel further says, that within the said borough there now is, and from time whereof the memory of man is not to the contrary there hath been an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said body of aldermen of the said borough of C. by the death of any one of such aldermen or otherwise, the mayor of the said borough for the time being, and the residue of the aldermen of the said borough, or the major part of such mayor and residue of the said aldermen who have been present at the next general common day after such vacancy hath happened, elected, and have been used and accustomed to elect, and of right ought to have elected, one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased or otherwise creating such vacancy &c.: And the said Samuel further says, that within the said borough of C. there now is, and from time whereof, &c. there hath been a certain other ancient and laudable custom used and approved of within the

the said borough of C. that is to say, that the mayor for the time being hath had, and hath been used and accustomed to have, and of right ought to have the casting vote in all cases of equality of voices on the election of aldermen of the said borough of C. and the person for whom the mayor hath thus given his casting vote hath been, and hath been held and reputed to be lawfully elected unto such office of alderman, to wit, at, &c. : And the said S. further says, that before the meeting hereinafter mentioned, to wit, on, &c. at the borough of C. aforesaid, one J. P. the elder, who was then and there an alderman of the said borough of C. died, whereby the place of an alderman of the said borough then and there became vacant until the election of the said S. hereinafter next mentioned : And the said S. further says, that on the day of in the twenty-seventh year, &c. being the next general common day after such vacancy had happened, a meeting of the mayor and surviving aldermen of the said borough of C. was held at the town-hall of the said borough for the purpose of electing an alderman in the room of the said J. P. the elder, then being deceased as aforesaid, and that at that meeting one J. H. the elder, then mayor and senior alderman of the said borough of C. according to the usage and custom of the said borough of C. proposed and nominated the said S. then being one of the common council of the said borough of C. as a fit person to be chosen an alderman of the said borough in the room of the said J. P. the elder, then being deceased as aforesaid, the said J. F. the elder, then mayor and alderman of the said borough, and J. M. esquire, E. J. J. B. J. F. the younger, and W. G. then and there being five other aldermen of the said borough of C. then and there gave their votes or voices for the election of the said S. into the said place and office of an alderman of the said borough, in the room of the said J. P. the elder ; and J. N. J. F. J. W. J. M. T. B. and J. P. the younger, then being also six other aldermen of the said borough of C. then and there gave their votes or voices against the election of the said S. whereupon there appearing then and there on the said election to be an equality of votes or voices of the mayor or aldermen then present in favour of and against the election of the said S. to the office of an alderman of the said borough of C. six of them the said mayor and aldermen then present having given their votes or voices for the election of the said S. and six of the said aldermen having given their votes or voices against the election of the said S. the said J. F. the elder, as mayor of the said borough of C. according to the said ancient usage and custom of the said borough, then and there gave his casting vote or voice in favour of the said S. and for the election of the said S. into the said place or office, by means whereof the said S. was then and there duly elected an alderman of the said borough of C. and the said J. F. the elder, as mayor as aforesaid, did thereupon declare the said S. to be duly elected an alderman of the said borough of C. in the room of the said J. P. the elder. then deceased, and the said Samuel being elected and made an alderman
of

ad plea states a
bye-law.

of the said borough of C. as aforesaid, to wit, on the twenty-fourth of April, in the twenty-seventh year, &c. at the borough of C. aforesaid, did in due manner take an oath for the due execution of his duty of such alderman of the said borough, and did then and there also take the corporal oath called the oath of allegiance, and the corporal oath called the oath of supremacy, before the said J. F. the elder, as mayor as aforesaid, who then and there had a lawful and competent authority to administer the same in that behalf, and thereupon he the said S. was then and there duly admitted into the said place and office of one of the aldermen of the said borough of C. by reason of which said premises he the said S. then and there became, and was, and still is one of the aldermen of the said borough, to wit, at, &c. by virtue whereof the said S. for all the time in the said information in that behalf mentioned, hath used and exercised, and still doth use and exercise the said office of alderman of the said borough, and hath there claimed and yet doth there claim to be one of the aldermen of the said borough of C. and to have, use, and enjoy all the liberties, privileges, and franchises to the said office of an alderman of the said borough of C. belonging and appertaining, as it was lawful for him to do, without this that the said S. hath usurped the said office, liberties, and privileges, and franchises upon our present sovereign lord the now king, in manner and form as by the said information is above supposed, all which said several matters and things he the said S. is ready to verify, as the court shall consider; whereupon he prays judgment, and that the aforesaid office, liberties, privileges, and franchises in form aforesaid claimed by him the said S. may for the future be allowed to him, and that he may be dismissed and discharged by the court here of and from the premises aforesaid: And for further plea in this behalf the said S. by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, protesting, &c. &c. (same as first plea as far as this mark ÷): And the said S. further says, that heretofore, that is to say, on the day of 1786, at, &c. the said mayor, bailiffs, and burgeses of the said borough, made, constituted, and ordained a certain order, bye-law, or constitution of the said corporation, whereby they ordained and ordered that from thenceforth the mayor for the time being of the said borough, should have the casting vote in all cases of equality of votes or voices amongst the electors of the election amongst other officers and aldermen of the said corporation of C.: And the said Samuel further says, that before the meeting hereinafter mentioned, to wit, on, &c. in the twenty-seventh year, &c. of our present sovereign lord the now king, at the borough of C. aforesaid, one J. P. the elder, who was then and there an alderman of the said borough of C. died, whereby the place of an alderman of the said borough then and there became vacant, and the same continued so vacant until the election of the said S. hereinafter next mentioned: And the
said

said Samuel further says, that on the twenty-fourth April, in the
 twenty-seventh year, &c. being the next general common day
 after such vacancy had happened, a meeting of the mayor and
 surviving aldermen of the said borough of C. was held at the
 town hall of the said borough, for the purpose of electing an al-
 derman in the room of the said J. P. the elder, then being dead
 as aforesaid, and that at that meeting one J. F. the mayor and
 senior alderman of the said borough of C. according to the usage
 and custom of the said borough, proposed and nominated the said
 S. then being one of the common council of the said borough of
 C. as a fit person to be chosen an alderman of the said borough
 in the room of the said J. P. the elder, deceased as aforesaid, and
 the said J. F. the elder, then mayor and alderman of the said
 borough, and J. M. esquire, &c. &c. then and there being five
 other aldermen of the said borough of C. then and there gave
 their votes or voices for the election of the said S. into the said place
 and office of alderman of the said borough, in the room of the
 said J. P. the elder; and J. N. &c. then and there being also six
 other aldermen of the said borough of C. then and there gave
 their votes or voices against the election of the said S.; where-
 upon there appearing then and there in the said election to be an
 equality of votes or voices of the mayor and aldermen then present
 in favour of and against the election of the said S. to the said
 office of alderman of the said borough of C. six of them the said
 mayor and aldermen then present having given their votes or
 voices for the election of the said S. and six of them the said alder-
 men having given their votes or voices against the election of the
 said S. the said J. F. the elder, as mayor of the said borough of
 C. according to the aforesaid order, bye law, or constitution of
 the said corporation of the said borough of C. then and there
 gave his casting vote or voice in favour of the said S. and for the
 election of the said S. into the said place or office, by means
 whereof the said S. was then and there duly elected an alderman
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough as aforesaid, did thereupon declare the said
 S. to be then and there duly elected an alderman of the said
 borough of C. in the room of the said J. P. the elder, then de-
 ceased, and the said S. so being elected and made an alderman of
 the said borough, afterwards, to wit, on the twenty-fourth of
 April, in the twenty-seventh year aforesaid, at the borough of
 Cambridge aforesaid, did in due manner take an oath for the
 execution of his duty of such alderman of the said borough, and
 did then and there also take the corporal oath commonly called
 the oath of allegiance, and the corporal oath commonly called the
 oath of supremacy, before the said J. F. the elder, the mayor as
 aforesaid, who then and there had lawful and competent authority
 to administer the same in that behalf; and thereupon the said S.
 was then and there duly admitted into the said place and office of
 one of the aldermen of the said borough of C. by reason of

ad plea states a
bye-law.

of the said borough of C. as aforesaid, to wit, on the twenty-fourth of April, in the twenty-seventh year, &c. at the borough of C. aforesaid, did in due manner take an oath for the due execution of his duty of such alderman of the said borough, and did then and there also take the corporal oath called the oath of allegiance, and the corporal oath called the oath of supremacy, before the said J. F. the elder, as mayor as aforesaid, who then and there had a lawful and competent authority to administer the same in that behalf, and thereupon he the said S. was then and there duly admitted into the said place and office of one of the aldermen of the said borough of C. by reason of which said premises he the said S. then and there became, and was, and still is one of the aldermen of the said borough, to wit, at, &c. by virtue whereof the said S. for all the time in the said information in that behalf mentioned, hath used and exercised, and still doth use and exercise the said office of alderman of the said borough, and hath there claimed and yet doth there claim to be one of the aldermen of the said borough of C. and to have, use, and enjoy all the liberties, privileges, and franchises to the said office of an alderman of the said borough of C. belonging and appertaining, as it was lawful for him to do, without this that the said S. hath usurped the said office, liberties, and privileges, and franchises upon our present sovereign lord the now king, in manner and form as by the said information is above supposed, all which said several matters and things he the said S. is ready to verify, as the court shall consider; whereupon he prays judgment, and that the aforesaid office, liberties, privileges, and franchises in form aforesaid claimed by him the said S. may for the future be allowed to him, and that he may be dismissed and discharged by the court here of and from the premises aforesaid: And for further plea in this behalf the said S. by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, protesting, &c. &c. (same as first plea as far as this mark ÷): And the said S. further says, that heretofore, that is to say, on the day of 1786, at, &c. the said mayor, bailiffs, and burgeses of the said borough, made, constituted, and ordained a certain order, bye-law, or constitution of the said corporation, whereby they ordained and ordered that from thenceforth the mayor for the time being of the said borough, should have the casting vote in all cases of equality of votes or voices amongst the electors of the election amongst other officers and aldermen of the said corporation of C.: And the said Samuel further says, that before the meeting hereinafter mentioned, to wit, on, &c. in the twenty-seventh year, &c. of our present sovereign lord the now king, at the borough of C. aforesaid, one J. P. the elder, who was then and there an alderman of the said borough of C. died, whereby the place of an alderman of the said borough then and there became vacant, and the same continued so vacant until the election of the said S. hereinafter next mentioned: And the
said

said Samuel further says, that on the twenty-fourth April, in the
 twenty-seventh year, &c. being the next general common day
 after such vacancy had happened, a meeting of the mayo and
 surviving aldermen of the said borough of C. was held at the
 town hall of the said borough, for the purpose of electing an al-
 derman in the room of the said J. P. the elder, then being dead
 as aforesaid, and that at that meeting one J. F. the mayor and
 senior alderman of the said borough of C. according to the usage
 and custom of the said borough, proposed and nominated the said
 S. then being one of the common council of the said borough of
 C. as a fit person to be chosen an alderman of the said borough
 in the room of the said J. P. the elder, deceased as aforesaid, and
 the said J. F. the elder, then mayor and alderman of the said
 borough, and J. M. esquire, &c. &c. then and there being five
 other aldermen of the said borough of C. then and there gave
 their votes or voices for the election of the said S. into the said place
 and office of alderman of the said borough, in the room of the
 said J. P. the elder; and J. N. &c. then and there being also six
 other aldermen of the said borough of C. then and there gave
 their votes or voices against the election of the said S.; where-
 upon there appearing then and there in the said election to be an
 equality of votes or voices of the mayor and aldermen then present
 in favour of and against the election of the said S. to the said
 office of alderman of the said borough of C. six of them the said
 mayor and aldermen then present having given their votes or
 voices for the election of the said S. and six of them the said alder-
 men having given their votes or voices against the election of the
 said S. the said J. F. the elder, as mayor of the said borough of
 C. according to the aforesaid order, bye law, or constitution of
 the said corporation of the said borough of C. then and there
 gave his casting vote or voice in favour of the said S. and for the
 election of the said S. into the said place or office, by means
 whereof the said S. was then and there duly elected an alderman
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough of C. and the said J. F. the elder, as mayor
 of the said borough as aforesaid, did thereupon declare the said
 S. to be then and there duly elected an alderman of the said
 borough of C. in the room of the said J. P. the elder, then de-
 ceased, and the said S. so being elected and made an alderman of
 the said borough, afterwards, to wit, on the twenty-fourth of
 April, in the twenty-seventh year aforesaid, at the borough of
 Cambridge aforesaid, did in due manner take an oath for the
 execution of his duty of such alderman of the said borough, and
 did then and there also take the corporal oath commonly called
 the oath of allegiance, and the corporal oath commonly called the
 oath of supremacy, before the said J. F. the elder, the mayor as
 aforesaid, who then and there had lawful and competent authority
 to administer the same in that behalf; and thereupon the said S.
 was then and there duly admitted into the said place and office of
 one of the aldermen of the said borough of C. by reason of
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which premises, &c. (same as in first plea from hence to the end) thereupon he prays judgment, &c.

Geo. Wood.

Replication, taking issue on all the facts.

And the said J. T. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, being present here in court, and having heard the said plea of the said S. by him first above pleaded in bar read for our said lord the king, saith, that for any thing by him therein alledged our said present sovereign lord the king ought not to be barred from having his aforesaid information against him, because protesting that the said plea of the said S. first above pleaded, and the matters therein contained are not sufficient in law to preclude our said present sovereign lord the king from having his aforesaid information against the said Samuel; for replication nevertheless in this behalf the said coroner and attorney of our said lord the king, for our said lord the king further saith, that within the said borough there now is not, and from time whereof the memory of man is not to the contrary, there hath not been an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said borough of aldermen of the said borough of C. by the death of any one of such aldermen or otherwise, the mayor of the borough for the time being, and the residue of the aldermen who have been present at the next general common day after such vacancy hath happened, have at such next general common day after such vacancy hath happened elected, and have used and been accustomed to elect, and of right ought to have elected one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased, or otherwise creating such vacancy as the said S. hath in his said plea above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, &c. and the said S. F. doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king, further saith, that within the said borough of C. there now is not, and from time whereof, &c. hath not been a certain ancient and laudable custom used and approved of within the said borough of C. that is to say, that the mayor for the time being hath had, and hath been used and accustomed to have, and of right ought to have the casting vote in all cases of equality of voices on the election of aldermen of the said borough of C. and that the person for whom the mayor hath thus given his casting vote hath been, and hath been held and reputed to be lawfully elected into such office of alderman, as he the said S. hath in his said plea above alledged, and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that J. F. the elder, in the said plea mentioned,

sioned, was not, at the time of the said meeting for the purpose of electing an alderman as in the said plea is mentioned, senior alderman of the said borough, in manner and form as the said S. hath in and by his plea above alledged, and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king saith, that the said J. F. the elder, in the said plea mentioned did not, according to the usage and custom of the said borough of C. in that behalf, propose and nominate the said S. in manner and form, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that at the time of the said supposed nomination of the said S. as a fit person to be chosen an alderman of the said borough, the said S. was not one of the common council of the said borough of C. in manner, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that there did not appear to be, nor was there any such equality of votes or voices in the said election in favour of the election of the said Samuel to the office of alderman of the said borough of C. aforesaid, in manner and form as the said Samuel hath above alledged, and this, &c.: And the said coroner, &c. further saith, that the said J. F. the elder did not give a casting vote or voice in favour of the said S. and for the electing of the said S. into the said place and office of an alderman of the said borough, in manner and form, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not elected an alderman of the said borough of C. in manner and form, &c. and this, &c.: And the said coroner and attorney, &c. further saith, that the said S. did not take an oath for the due execution of his duty of an alderman of the said borough, nor take the corporal oath commonly called the oath of allegiance, and the corporal oath commonly called the oath of supremacy before the said J. F. the elder, mayor of the said borough of C. in manner, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not admitted into the said place and office of one of the said aldermen of the said borough of C. &c. in manner, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. was not, nor is one of the aldermen of the said borough, in manner, &c. and this, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, being present here in court, and having heard the said last plea of the said S. by him lastly above pleaded read in manner lastly above pleaded in bar, saith, that for any thing by him in his said last plea alledged, our said sovereign lord the king ought not to be barred from having his aforesaid information against him, because protesting (insufficiency, &c.); for replication, nevertheless in this behalf the said coroner and attorney of our said lord the king, for our said lord the king further saith, that within the said borough there now is not, nor hath been, from the time whereof the memory of man

is not to the contrary, an ancient and laudable custom there used and approved, that is to say, that upon every vacancy in the said body of aldermen of the said town of C. by the death of any one of such aldermen or otherwise, the mayor of the said borough for the time being, and the residue of the aldermen who have been present at the next general common day after such vacancy hath happened, have at such next general common day after such vacancy hath happened elected, and have been used and been accustomed to elect, and of right ought to have elected one of the common council of the said borough of C. to be an alderman of the said borough in the room and place of such alderman so deceased, or one creating such vacancy, in manner, &c. and this, &c.: And the said coroner, &c. further saith, that the said mayor, bailiffs, and burgessees of the said borough did not ever make, constitute, or ordain a certain order, bye-law, or constitution of the said corporation, whereby they ordained and ordered that the mayor of the said borough for the time being should have the casting vote in all cases of equality of votes or voices amongst the electors in the election (amongst other officers) of aldermen of the said corporation of C. in manner, &c. and this, &c. The replication goes on from hence taking issue on every fact alledged in the last plea, as in replication to first plea.

J. GRAHAM.
EDW. LAW.

Plea to information in nature of *quo warranto*, to shew by what authority W. C. late of, &c. whitesmith, claimed the office of common council man of the borough of C. the same in point of form as the foregoing.

CAMBRIDGESHIRE. And now at this day, that is to say, on, &c. in this same term, before our said lord the king, at Westminster, comes the said W. C. by A. B. his clerk, in court, and having heard the said information read says, that under colour of the premises in the said information contained, he is greatly vexed and troubled, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he the said W. C. need not, nor is he obliged by the law of the land to answer thereto; yet for plea in this behalf the said W. C. says, that he does not think that our said lord the king should or ought further to impeach or trouble him the said W. C. by reason of the premises in the said information mentioned and specified, because he says, that true it is that the said borough of C. in the county of C. now is and for the space of twenty years last past and upwards hath been an ancient borough, and that the mayor, bailiffs, and burgessees of the said borough now use, and during all the time aforesaid have been one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgessees of the said borough of C. in the county of C. that is to say, at the borough of C. aforesaid; and that within the said borough there are, and for and during all the time aforesaid there have been, and now ought to be a mayor, twelve aldermen, twenty-four of the common council,

four

four bailiffs, and an indefinite number of burgeses of the said borough, and that the office of common council man of the said borough for and during all the time aforesaid hath been and still is a public office and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the same borough, to wit, at, &c. as by the said information is above supposed, but the said W. C. further says, that the said borough of C. now is, and from time whereof the memory of man is not to the contrary hath been an ancient borough, and that the burgeses of the said borough for all the time aforesaid, until the thirtieth day of April, in the third year of the reign of James the First, late king of England, &c. were a body corporate and politic in deed, fact, and name, and had during the time aforesaid been incorporated and confirmed by divers charters and letters patent of divers late kings and queens of England, at divers times, by divers names of incorporation, to wit, by the name of the mayor, bailiffs, and burgeses of the borough of C. and also by the name of the burgeses of the borough of C. and also by divers other names of incorporation, on which day, to wit, on the said thirtieth day of April, in the third year, the said king James the First, by his letters patent, sealed with his great seal of England, did of his especial grace, of his certain knowledge and mere motion, for himself, his heirs, and successors, will, ordain, constitute, grant, and declare that the said borough of C. was, and should be and remain from thenceforth for ever a free borough of itself, and that the men of the said borough should be free burgeses, and that they should have liberties and free customs for ever belonging to a free borough, and that the mayor, bailiffs, and burgeses of the same borough were and from thenceforth for ever should be one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the said borough of C. as by the said letters patent inrolled and remaining of record in the high court of chancery of our sovereign lord the now king, to wit, at Westminster aforesaid, in the said county of Middlesex, relation being thereunto had, will, amongst other things therein mentioned, more fully appear; which said letters patent afterwards, to wit, on the same thirtieth day of April, in the third year aforesaid, were duly accepted by the said then mayor, bailiffs, and burgeses of the said borough of C. to wit, at, &c.: And the said W. C. further says, that within the said borough, from the time whereof the memory of man is not to the contrary, there have been and now of right ought to be a mayor, twelve aldermen, twenty four common council men, four bailiffs, and an indefinite number of burgeses in the said borough, and that during all the time aforesaid the mayor, aldermen, common council men, bailiffs, and burgeses of the said borough have been used and accustomed on five days in each year called general or grand common days, that is to say, on the Tuesday next after Twelfth-day, otherwise called the Festival of the Epiphany, Tuesday, otherwise called the

the Tuesday fortnight after Easter day, the sixteenth day of August, unless the same shall happen to fall upon a Sunday, and in that case then the day next following the said sixteenth day of August, the feast day of Saint Bartholomew, and the feast day of Saint Michael the Archangel in each year, to assemble and meet together for the doing and transacting the affairs and businesses of the said borough, and that within the said borough there is, and from time immemorial hath been a certain ancient and laudable custom used and approved of, that is to say, that when and so often as there hath been a vacancy amongst the common council men of the said borough, by death or otherwise, such vacancy, during all the time aforesaid, hath been used and accustomed and still of right ought to be filled up by the remaining common council men present at the meeting, as hereinafter is mentioned, at the next general or grand common day that hath happened after such vacancy, and for that purpose during all the time aforesaid the remaining common council men of the said borough have been used and accustomed, upon the first general or grand common day which hath happened next after such vacancy as aforesaid, to assemble and meet together in a certain room or parlour in the town hall within the said borough, and being so assembled and met together, the said remaining common council men having, during all the time aforesaid, been used and accustomed to elect, and have elected, and still of right ought to elect some other person, being a burghers of the said borough, to fill up and supply the said place or vacancy of a common council man of the said borough: And the said W. C. further says, that from the time whereof the memory of man is not to the contrary, every person elected a common council man of the said borough as aforesaid, before he hath been admitted to execute that office, hath taken and hath used, and been accustomed to take and of right ought to take his corporal oath before the mayor of the said borough for the time being, well and truly to execute the office of a common council man of the said borough, and certain other oaths usually taken on the aforesaid occasion, that is to say, at the borough aforesaid, in the said county: And the said W. C. further says, that on the sixteenth day of December, in the twenty-seventh year of the reign of our lord the now king, the office of one of the common council men of the said borough, was vacant by the death of one W. W. then one of the common council men of the said borough, that is to say, at, &c.: And the said W. C. further says, that on the ninth day of January, in the twenty-seventh year aforesaid, the same being Tuesday next after Twelfth-day, otherwise called the Festival of the Epiphany, and the next general or grand common day after the death of the said W. W. and on that vacancy, divers, to wit, twenty-three of the then remaining common council men of the said borough did duly assemble and meet together in the said room or parlour in the said town hall within the said borough, in order to elect and for the purpose of electing some other person, being a burghers of the said borough,

borough, to supply and fill up the said place or vacancy in the said common council of the said borough, occasioned by the death of the said W. W. as aforesaid, according to the custom of the said borough; and being so assembled and met the said W. C. being then a burghers of the said borough, was then and there duly elected by the common council men then present into the said vacancy or place of common council man of the said borough, in the room or place of the said W. W. deceased, and was then and there declared to be duly elected, and afterwards, to wit, on the tenth day of January, in the year last aforesaid, at the borough aforesaid, was duly sworn, and did then and there take his corporal oath, upon the Holy Evangelists of God, before J. F. esquire (he the said J. F. being then and there the mayor of the said borough), well and truly to execute the office of a common council man of the said borough, and did also then and there before the said mayor take all other oaths usually taken upon being sworn into the said office: And the said W. C. further says, that he was thereupon then and there admitted into the said office of common council man of the said borough, to wit, at, &c. by reason of which premises he the said W. C. from thence hitherto hath been and still is one of the common council men of the said borough, and by that warrant he the said W. C. during the time in the information in that behalf specified, at the borough aforesaid, in the said county, hath there used and exercised, and still doth there use and exercise the office of one of the common council men of the same borough, and hath there claimed and still doth there claim to be one of the common council men of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a common council man of the said borough belonging and appertaining; without this that he the said W. C. hath usurped or doth usurp the aforesaid office, liberties, privileges, and franchises upon our said lord the king in manner and form as in the said information is above supposed, and which said matters and premises the said W. C. is ready to verify and prove as the court shall award; wherefore he prays judgement, and that the aforesaid office, liberties, privileges, and franchises by him claimed in form aforesaid, may for the future be allowed and adjudged to him, and that he may be dismissed by the court of and from the premises above laid to his charge, &c.

And the said coroner and attorney of our said lord the king, Surrejoinder by before the king himself, for, &c. as to the said plea of the the king's coroner in quo warranto. Defendant claimed to be junior burghers of the borough of W. said W. W. by him above pleaded by way of rejoinder to the aforesaid plea of the said coroner and attorney of our said present sovereign lord the king, for our said lord the king thirteenthly above pleaded, in reply saith as before, that by the usage and custom of the said borough of W. from time immemorial used and approved of within the same, the bailiffs of the said borough have been, and of right ought to have been, and still are a necessary

cessary and constituent part of every court leet or view of frank pledge holden and to be holden within the said borough, as he said coroner and attorney of our said present sovereign lord the king hath in and by his replication in that behalf alledged; and this the said coroner and attorney of our said present sovereign lord the king, for our said present sovereign lord the king prays may be enquired of by the country, &c. and the said W. W. doth the like, &c.: And the said coroner and attorney of our said present sovereign lord the king, as to the said plea of the W. W. by him above pleaded by way of rejoinder to the aforesaid plea of the said coroner and attorney of our said sovereign lord the king, for our said sovereign lord the king lastly above pleaded in reply, saith as before, that by the usage and constitution of the said borough of W. from time immemorial, all and every person or persons who have been at any time elected and chosen junior burgesses or a junior burgess of the said borough, hath, and have been used and accustomed to be, and of right ought to have been, and still of right ought to be at the time of such his and their election inhabitants of the said borough in manner and form as the said coroner, &c. and of this, &c.

Information *quo*
warranto at the
suit of the co-
roner to know
why the defend-
ant exercises the
office of mayor
of the town of
H.

BE it remembered that James Burrow, esquire, coroner and attorney of our said present sovereign lord the king, in the court of our said present sovereign lord the king, before the king himself, who for our said present sovereign lord the king in this behalf prosecutes, in his own proper person cometh here into the court of our said present sovereign lord the king, before the king himself at W. on, &c. in this same term, and for our said present sovereign lord the king, at the relation of C. O. of, &c. according to the form of the statute in such case made and provided, giveth the court here to understand and be informed, that the town of H. in the county of Y. is an ancient town, and that the mayor, bailiffs, and burgesses of the said town now are and for the space of ten years now last past have been, and long before were a body corporate and politic, in deed, fact, and name, by the name of the mayor, bailiffs, and burgesses of the said town of H. in the county of Y. that is to say, at the town of H. in the county of Y. that is to say, at the town of H. aforesaid, in the county of Y. aforesaid; and that the office of mayor of the said town is, and for and during all the time aforesaid hath been a public office and an office of great trust and pre-eminence within the said town touching the rule and government of the said town and the administration of public justice within the same town, that is to say, at the town of H. aforesaid, in the county of Y. aforesaid, yeoman, upon the day of , in the year of the reign, &c. at the town of H. aforesaid, in the said county of Y. did use and exercise, and from thence continually afterwards, till the time of exhibiting of this information, hath there used and exercised, without any legal warrant, royal grant,

QUO WARRANTO.—PLEA.

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grant, or right whatsoever, to be mayor of the said town, and to have, use, and enjoy, without any legal warrant, royal grant, or right whatsoever all the liberties, privileges, and franchises to the office of mayor of the said town belonging and appertaining, which said office, liberties, privileges, and franchises he the said , for and during the whole time last above mentioned upon our present sovereign lord the king, hath usurped and still doth usurp, that is to say, at, &c. in contempt of our said present sovereign lord the king, and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity: Whereupon the said coroner and attorney of our said present sovereign lord the king, for our present sovereign, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said S. W. in this behalf to make him answer to our said present sovereign lord the king, and shew by what warrant he claimeth to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid.

And now, that is to say, on, &c. in this same term, before Plea thereto. our sovereign lord the king, at W. cometh the said S. W. by A. B. his attorney, and having heard the information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and this by no means justly, because protesting that the said information and the matters therein contained are by no means sufficient in law, and that he need not, neither is he obliged by law to answer thereto; yet for plea for so much of the offence in the said information specified as charged the said S. W. with using and exercising the office of mayor of the said town on, &c. in the year aforesaid, and on that day there claiming to be mayor of the said town, and to have, use, and enjoy all the liberties, privileges, and franchises to the said office of mayor of the said town belonging and appertaining, saith, that he did not use or exercise the office of mayor of the said town on that day in that year, nor claim to be mayor of that town, nor to have, use, and enjoy all the liberties, privileges, and franchises to the said office of mayor of the said town belonging and appertaining on that day in that year, in manner and form as by the said information is above laid to his charge, and of this he puts himself upon the country, and the said coroner and attorney of our present sovereign lord the king doth the like, &c.: And for further plea as to the residue of the said offence in the said information specified, which charged him the said S. W. with using and exercising the said office of mayor of the said town, there on and from the twenty-ninth day of September, in the year aforesaid, and during that time there claiming to be mayor of the said town, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of mayor of the said town belonging and appertaining,

INFORMATION.

taining, the said S. W. saith, that he doth not intend that our said lord the king should or ought further to impeach or implead him the said S. W. by reason of the premises in the said information in that behalf above mentioned and specified; because he saith that true it is that the said town of H. in the said county of Y. is an ancient town, and that the mayor, or *bailiffs*, and *burgesses* of the said town at the time of exhibiting of the said information were, and for the space of years last past had been, and long before were one body corporate and politic, in deed, fact, and name, by the name of the mayor, bailiffs, and burgesses of the town of H. in the county of Y. and that the office of mayor, bailiffs, and burgesses of the town of H. in the county of Y. and that the office of mayor of the said town is, and for and during the whole time aforesaid hath been a public office and an office of great trust and pre-eminence within the said town, touching the rule and government of the same town and the administration of public justice within the same town, as by the said information is above supposed: And the said S. W. for plea further saith, that the burgesses of the town of H. aforesaid, from time whereof, &c. until the time of granting the letters patent, have been and were a body corporate and politic in deed, fact, and name, by the name of the burgesses of the town of H. within the liberty of H. to wit, at the town of H. aforesaid: And the said S. W. for plea further saith, that the lord Edward the Third, late king of England, &c. by his letters patent, sealed under his great seal of England, bearing date at W. the day of , &c. for himself and his heirs granted to the then burgesses of the said town of H. by the name of burgesses of his town of H. within the liberty of H. that the said burgesses and their successors should have a community, and should yearly elect and chuse out of themselves a mayor and bailiffs, a coroner and other fit ministers, who having taken the oath as the manner was, should from thenceforth do and observe those things which to the office of mayor, bailiffs, and coroner, and such like ministers did appertain to be done and exercised in the same town, as by the record of the said letters patent, remaining in his present majesty's high court of chancery, relation being thereunto had, it doth more fully appear; which said letters patent soon after the making and granting of the same, to wit, on the said sixteenth day of April, in the twenty-second year of the reign of the said late king Edward the Third, the then burgesses of the said town of H. accepted and assented thereto, to wit, at the town of H. aforesaid: And the said S. W. for a plea further saith, that the election of the mayor of the town of H. hath been, and hath been used and accustomed to be yearly and every year on Thursday next after the feast of Saint Michael the Archangel, at the town of H. aforesaid, at an assembly of the mayor, bailiffs, and burgesses of the town of H. aforesaid for the time being, duly held within the same town for that purpose by the said mayor, bailiffs, and burgesses of the said town, or by the major part of
them

them so assembled; and the person, who from time to time hath been so elected and chosen mayor of the said town as aforesaid, from time to time hath been mayor of the said town upon the Feast of Saint Michael the Archangel then next after such his election as aforesaid, and for one whole year then next ensuing: And the said S. W. for plea further saith, that the person so elected, before that he hath been admitted into or taken upon himself to use or exercise the said office of mayor of the said town, hath from time to time upon the Feast of Saint Michael the Archangel next after he hath been so elected, taken, and hath been used and accustomed and ought to take his corporal oath for the due and faithful execution of the office of mayor of the said town, before the mayor of the said town, being his next and immediate predecessor in that office: And the said S. W. for plea further saith, that after the making and granting the said letters patent, and the acceptance thereof as aforesaid, to wit, upon Thursday next, &c. (the said day being the usual day for the annual election of officers of and for the said town of H. aforesaid) at an assembly of the commonalty and burgesses of the said town of H. in the said county of Y. then held at the old town hall in the said town of H. before and by the then mayor, bailiffs, and burgesses of the said town of H. for the election of officers of and for the same town of H. for one whole year, to commence at Michaelmas then next ensuing, a certain ordinance or bye-law was then and there made and ordained by them the said mayor, bailiffs, and burgesses of the said town of H. then and there so assembled as aforesaid, for the better ordering and governing the said town and corporation, whereby it was among other things declared, directed, ordained, enacted, ordered, and set down, that from thenceforth for ever thereafter every burgess of the said town of H. was and should be qualified and capable of being elected to and serve the office of mayor and bailiffs respectively of the said town of H. or any or either of them, *without being put in lye* for the said offices, or either of them, by any person or persons whatsoever, whether such person or persons so to be from time to time elected into the said office, or any or either of them *had or had not* been elected into or *served any office whatsoever in the said corporation* of the said town of H. any bye-law, ordinance, usage, or custom to the contrary thereof notwithstanding: And it was thereby further ordered, ordained, enacted, and decreed by the said mayor, bailiffs, and burgesses of the said town of H. then assembled as aforesaid, that from thenceforth all and every bye-law, ordinance, usage, or custom of or made by the said corporation of the said town of H. contrary to what was thereby ordered and ordained, or any part thereof, or so much thereof as was contrary to what was thereby ordered and ordained, should be and stand repealed, annulled, revoked, and made void, and the same and every part thereof was and were thereby accordingly repealed, annulled, revoked,

and made void to all intents and purposes whatsoever, as by the said bye-law or ordinance may more fully appear: And the said S. W. for plea further saith, that afterwards, upon the said Thursday next, &c. at the last-mentioned assembly of the then mayor, bailiffs, and burgeses of the said town so assembled and met as aforesaid, for the purpose aforesaid, did then and there in due manner vote for, elect, and chuse him the said S. W. being then and there one of the burgeses of the said town and a fit and proper person in that behalf to be mayor of the said town for the year then next ensuing: And the said S. W. for a plea further saith, that after he had been so elected mayor of the said town as aforesaid, and before he was admitted into or took upon himself to use or exercise the said office of mayor of the said town, he the said S. W. afterwards, to wit, on the Feast of Saint, &c. after he had been so elected as aforesaid, being the twenty-ninth day of September aforesaid, in the twenty-seventh year aforesaid, at, &c. did in due manner take his corporal oath before the then mayor of the said town, being his next immediate predecessor of the said office of mayor of the said town, to wit, W. B. gentleman, for the due and faithful execution of the office of mayor of the said town, and every other oath by law required in that behalf, and by virtue thereof and thereupon he the said S. W. upon, &c. was by the said then mayor admitted into and did take upon himself the office of mayor of the said town, to wit &c. and on the same twenty-ninth day of September, &c. and from thence continually afterwards till the time of exhibiting of the said information was and still is a mayor of the said town of H. and by that warrant he the said S. W. for and during all that time, at the town of H. aforesaid, hath used and exercised, and yet there doth use and exercise the office of mayor of the said town, and for and during all the said time hath there claimed and yet doth claim to be mayor of the said town, and to have, use, and enjoy all the liberties, privileges, and franchises in the said information mentioned, or any of them, to the said office of mayor of the same town belonging and appertaining, as it was and still is lawful for him; without this that he the said S. W. the said office, liberties, privileges, and franchises in the said information mentioned, hath usurped or did usurp upon our present sovereign lord the king, in manner and form as in and by the said information is above alledged against him; all and singular which said matters and things the said S. W. is ready to verity and prove as the court shall award; whereupon he prayeth judgment, and that the said office, liberties, privileges, and franchises, by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

And

And the said J. B. esquire, coroner and attorney of our said present sovereign lord the king, before the king himself, who for our said present sovereign lord the king prosecutes in this behalf, having heard the plea of him the said S. W. in manner and form above pleaded in bar as to the residue of the offence in the said information specified, which charge him the said S. W. with using and exercising the said office of mayor of the said town there, on and from the twenty-ninth day of September, in the year aforesaid, and during all that time claiming to be mayor of the said town, and yet claiming to be mayor of the said town, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of mayor of the said town belonging and appertaining, for our said present sovereign lord the king saith, that for any thing before alledged by him the said S. W. in his said plea, our said present sovereign lord the king ought not to be barred from having his aforesaid information against him the said S. W. because, he saith, that the burgessees of the said town of H. aforesaid, from time whereof, &c. have been and were a body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgessees of the town of H. aforesaid, at any time within time immemorial until the granting of the said supposed letters patent, have been and were a body corporate and politic in deed, fact, and name, by the name of burgessees of H. within the liberty of H. as the said S. W. hath in and by his said plea above alledged, and this the said coroner and attorney of, &c. for, &c. is ready to verify and prove as the court shall award; wherefore he prayeth judgment, and that the said S. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the offices, liberties, privileges, and franchises aforesaid: And the said coroner and attorney of our said present, &c. further saith, that the said lord Edward the Third, late king of England, &c. did not make any such grant to the burgessees of the said town of H. by the name of the burgessees of the town of H. within the liberties of H. as the said S. W. hath also by his said plea above alledged, and this also the said coroner and attorney of, &c. prayeth may be enquired of by the country, &c. and the said S. W. doth the like: And the said coroner and attorney of, &c. for, &c. further says that the burgessees of the said town of H. did not accept the said letters patent, in the said plea of the said S. W. mentioned, and assent thereto as the said S. W. hath in and by his said plea above alledged; and this also the said coroner and attorney of, &c. for, &c. prays may be enquired of by the country, and the said S. W. doth the like: And the said coroner and attorney, &c. for, &c. further saith, that the said town and borough of H. now and from time whereof, &c. hath been an ancient town and borough, and that the burgessees of the said town and borough are and from time whereof, &c. have been a body corporate and politic in deed, fact, and name, and known or called by the name

Replication, taking issue on all the facts disclosed by the plea.

name of mayor, bailiffs, and burgesſes of the town of H. in the county of Y. and conſiſts of a mayor, two bailiffs, nine aldermen, and an indefinite number of burgesſes; one of the aldermen is alſo coroner, that is to ſay, at the town of H. aforeſaid: And the ſaid coroner and attorney of our ſaid lord the preſent king, for, &c. further ſaith, that for the better rule and government of the ſaid town and borough there now is, and for all the ſaid time whereof, &c. hath been one of the burgesſes of the ſaid town and borough, who hath been and hath been called mayor of the ſaid town and borough of H. aforeſaid, and alſo that within the ſaid town and borough there now are and for all the ſaid time, &c. have been two of the burgesſes of the ſaid town and borough who have been, and have been called, bailiffs of the ſaid town and borough; and alſo that within the ſaid town and borough there now are and for all the ſaid time whereof, &c. have been nine burgesſes of the ſaid town or borough, who have been and have been called aldermen of the ſaid town and borough, that is to ſay, at the town of H. aforeſaid: And the ſaid coroner and attorney of, &c. for, &c. further ſaith, that within the ſaid town and borough there now is and for all the time whereof, &c. there hath been a certain ancient and laudable cuſtom there uſed and approved of, touching the election and chuſing of the mayor of the ſaid town and borough, that is to ſay, that the mayor, bailiffs, aldermen, and burgesſes of the ſaid town and borough aforeſaid for the time being for all the time aforeſaid have yearly and every year, on Thursday next before the Feaſt of Saint Michael the Archangel, met together and aſſembled themſelves, and have been uſed and accuſtomed to meet together and aſſemble themſelves within the town hall of and within the ſaid town and borough, and that the mayor, bailiffs, and aldermen of the ſaid borough for the time being, or the major part of them ſo aſſembled, for and during all the time aforeſaid, have nominated and put up and have been uſed and accuſtomed to put up *two of the aldermen* of the ſaid town and borough, out of which the mayor of the ſaid town and borough for the year enſuing was to be choſen, *which perſons ſo put in nomination* for mayor as aforeſaid have been for all the time aforeſaid called lytes, and the mayor, or one of the bailiffs, or one of the aldermen then preſent, or the town clerk of the ſaid town and borough for the time being, hath reported and hath been uſed and accuſtomed to report to the burgesſes of the ſaid town and borough there aſſembled, the ſeveral names of the perſons ſo put up for lytes, and after ſuch nomination and report made, the then mayor, bailiffs, aldermen, and burgesſes ſo aſſembled as aforeſaid have on the ſame day proceeded, and have been uſed and accuſtomed to proceed to the election of a mayor of the ſaid town and borough for the year then next enſuing, out of the ſaid lytes ſo nominated and reported as aforeſaid, and ſuch one of the ſaid two perſons ſo nominated and reported as lytes aforeſaid, who hath had the majority of votes or voices of the ſaid mayor, bailiffs, aldermen, and burgesſes ſo aſſembled as aforeſaid, hath been allowed to be
duly

duly elected and sworn into the office of mayor of the said town and borough, on the Feast, &c. then next ensuing, to exercise the office of mayor of the said town and borough for one year then next ensuing, and from thence until another hath been duly elected, admitted, and sworn into that office, to wit, at, &c. and the person so elected, before he hath been admitted to execute the said office of mayor, hath, on the Feast of Saint Michael the Archangel next after he hath been so elected, taken and hath been used and accustomed to take his corporal oath before the last mayor or his predecessors, and the bailiffs of the said town and borough for the time being, in the town hall within the said town and borough, as would then be present, rightly, well, and truly to execute the office of mayor of the said town and borough, that is to say, at the town of H. aforesaid: And the said coroner and attorney of our, &c. for our, &c. further saith, that on Tuesday next before the Feast of Saint Michael the Archangel now last past, the said S. W. was not by the then mayor, bailiffs, and aldermen of the said borough, or the major part of them, so nominated or put up as one of the aldermen of the said town and borough called lyte, together with any other of the aldermen of the said borough, that out of them the mayor of the said town and borough for the time being should be chosen, according to the said custom; and this, &c. wherefore, &c.: And the said coroner of, &c. for, &c. further saith, that no such assembly of the commonalty of the burgessees of the said town of H. in manner and form as by the said plea of the said S. W. is above alledged; and this the said coroner and attorney, of, &c. prayeth may be enquired of by the country, and the said S. W. doth the like: And the said coroner and attorney of, &c. for, &c. further saith, that such ordinance or bye-law, as in the said plea of the said S. W. is above set forth and specified, was not made or ordered by the mayor, bailiffs, and burgessees of the said town of H. in manner and form as the S. W. hath in and by his said plea alledged; and this also the said coroner and attorney of, &c. for, &c. prays may be enquired of by the country, &c.: And the said coroner and attorney of, &c. for, &c. further saith, that the major part of the mayor, bailiffs, and burgessees did not vote for, elect, and chuse him the said S. W. to be mayor of the said town in manner and form as the said S. W. hath in and by his said plea above alledged; and this also the said coroner and attorney of, &c. for, &c. prays may be enquired of by the country, &c.: And the said coroner and attorney of, &c. for, &c. further saith, that the said S. W. did not take his corporal oath for the due and faithful execution of the office of mayor of the said town, and every other oath by law required in that behalf in manner and form as the said S. W. hath in and by his said plea in that behalf above alledged; and this the said coroner and attorney of, &c. for, &c. prays may be enquired of by the country, &c.: And the said coroner and attorney of, &c. for, &c. further says, that the said S. W. was not
admitted

admitted into the said office of mayor of the said town in manner and form as the said S. W. hath in and by his plea in that behalf above alledged; and this also, &c.: And the said coroner and attorney, &c. further saith, that the said S. W. was not nor is mayor of the said town of H. in manner and form as the said S. W. hath in and by his said plea above alledged; and th.s, &c.

F. NORTON.

D. POOLE.

Rejoinder.

And the said S. W. as to the said plea of the said coroner and attorney of, &c. for, &c. first above pleaded in reply, protesting that the said plea and the matters therein contained are not sufficient in law to convict him the said S. W. of the premises above charged upon him, nor to forejudge or exclude him from his said office, liberties, privileges, and franchises aforesaid, to which he need not nor is obliged by the law of the land to answer; yet for plea thereto the said S. W. as before saith, that the burgesses of the said town of H. aforesaid, from time whereof, &c. until the time of granting the same letters patent in the said plea of him the said S. W. in that behalf above mentioned, have been and were a body politic and corporate in deed, fact, and name, by the name of burgesses of the said town of H. within the liberty of H. as he the said S. W. hath in and by his said plea in that behalf above alledged; and of this the said S. W. puts himself upon the country, and the said coroner, &c. doth the like: And the said S. W. further says, that true it is that the said town and burgesses now is and from time whereof, &c. hath been an ancient town and borough, as is by the said coroner and attorney of our said present lord the king above in pleading alledged; but the said S. W. further saith, that the said burgesses of the said town and borough are and from the time of the acceptance of the said letters patent of the said late king Edward the Third, in the said plea of the said S. W. above-mentioned, have been a body politic and corporate in deed, fact, and name, by the name of mayor, bailiffs, and burgesses of the town of H. in the county of Y. and from the said time of the acceptance of the said letters patent hitherto hath consisted, and still doth consist of a mayor, two bailiffs, a coroner, and an indefinite number of burgesses, without this that the said burgesses of the said town and borough of H. are, and for all the said time whereof, &c. have been a body corporate and politic in deed, fact, and name, known and called by the name of mayor, bailiffs, and burgesses of the town of H. in the county of Y. and consists of a mayor, two bailiffs, nine aldermen, and an indefinite number of burgesses, one of which aldermen is coroner of the said borough, as in the said replication of the said coroner and attorney of, &c. for, &c. is above supposed; and this the said S. W. is ready to verify and prove as the court shall award; whereupon he prayeth judgment, and that the said office, liberties, privileges, and franchises by him claimed

in

QUO WARRANTO.—REJOINDER.

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In form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c. : And the said S. W. further saith, that within the same town and borough of H. for all the time whereof, &c, there hath not been one of the burgesles of the said town and borough who hath been, and hath been called mayor of the town and borough of H. aforesaid, as in the same replication is above alledged; and of this the said S. W. puts himself upon the country, and the said coroner and attorney, &c. doth the like : And the said S. W. further saith, that within the said town and borough of H. for all the said time whereof, &c. there hath not been two of the said burgesles of the said town and borough who have been and have been called bailiffs of the said town and borough, as in the said replication is above alledged; and of this also the said S. W. puts himself upon the country, &c. : And the said S. W. further saith, that within the said town and borough there are not for all the said time of, &c. have not been nine of the burgesles of the said town and borough who have been and have been called aldermen of the same town and borough, as in the same replication is also above alledged; and of this also the said S. W. puts himself upon the country, and the said coroner and attorney, &c. : And the said S. W. further saith, that within the said town and borough there is not, and for all the said time whereof, &c. there hath not been any such custom there used and approved, touching the electing and chusing of a mayor of the said town and borough, that is to say, that the mayor, bailiffs, aldermen, and burgesles of the said town and borough aforesaid, for the time being, for all the time aforesaid, have yearly and every year, on Thursday next before the Feast, &c. met together and assembled themselves, and have been used and accustomed to meet together and assemble themselves in the town hall of and within the said borough and town, and that the mayor, aldermen, and bailiffs of the said borough for the time being, or the major part of them so assembled, for and during all the time aforesaid, have nominated and put up two of the aldermen of the said town and borough, out of which the said mayor of the said town and borough for the year ensuing was to be chosen, which persons so put in nomination for mayor as aforesaid have for all the time aforesaid been called *lytes*; and the mayor or one of the said bailiffs, or one of the aldermen then present, or town clerk of the said town and borough for the time being, hath reported, and hath been used and accustomed to report to the burgesles of the said town and borough there assembled the several names of the persons so put up for lytes, and after such nomination and report made, the mayor, bailiffs, aldermen, and burgesles so assembled as aforesaid, have on the same day proceeded, and have been used and accustomed to proceed to the election of a mayor of the same town and borough for the year then next ensuing out of the lytes so nominated and reported as lytes as aforesaid, who hath had the

INFORMATIONS.—(SURREJOINDER.)

majority of votes or voices of the said mayor, bailiffs, aldermen, and burgessees of the said town and borough so assembled as aforesaid hath been allowed to be duly elected, and hath been admitted and sworn, and hath been used and accustomed to be allowed to be duly elected and sworn into the office of mayor of the said town and borough on the Feast, &c. then next ensuing, to exercise the said office of mayor of the said town and borough, for one year then next following, and from thence until another hath been duly elected, admitted, and sworn into that office; and the person so elected, before he hath been admitted to execute the said office of mayor, hath on the Feast of, &c. next, after he hath been so elected as aforesaid, taken and hath been used and accustomed to take his corporal oath before the last mayor or his predecessor, and the bailiffs of the said town and borough for the time being, in the town hall within the same town and borough as would then be present, rightly, well, and truly to execute the office of mayor of the said town and borough, as in the same replication is above also alledged; and of this also the said S. W. puts himself upon the country, &c.

L. ROBINSON.

Surrejoinder.

And the said coroner and attorney of, &c. who for, &c. in this behalf prosecutes, having heard the said plea of him the said S. W. by him above pleaded by way of rejoinder, in manner and form aforesaid, for our said present sovereign lord the king as before, saith, that the said burgessees of the said town and borough of H. are, and for all the said time whereof, &c. have been a body corporate and politic in deed, fact, and name, known and called by the name of mayor, bailiffs, and burgessees of the town of H. in the county of Y. and consist of a mayor, two bailiffs, nine aldermen, and an indefinite number of burgessees; one of which aldermen is coroner of the said borough, as in the said replication of the said coroner and attorney of our said lord the king is above alledged; and this the said coroner and attorney of our said present sovereign lord the king prayeth may be enquired of by the country, &c.

D. POOLE.

Information *quo*
warranto, defen-
dant claims to be
mayor of the
port of New
Romney.

KENT. Be it remembered that James Burrow, esquire, coroner and attorney of, &c. in the court, &c. who prosecutes for, &c. comes in his proper person here into the court of our said lord the king, before the king himself at W. on, &c. in the same term, and for our said lord the king on the relation of W. J. &c. taylor, according to the form of the statute in such case made and provided, brings here into the court of our said lord the king, before the king himself now here, a certain information in the nature of a *quo warranto*, against H. W. of the town and port of New Romney, in the county of K. esquire, which

said

QUO WARRANTO.—PLEA.

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said information followeth in these words, that is to say, Kent: Be it remembered that James Burrow, esquire, coroner and attorney of our present sovereign lord the king, in the court of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, comes in his proper person here into the court of our said lord the king, before, &c. at W. upon Friday next, &c. and for our said lord the king, on the relation of, &c. according to the form of the statute in such case made and provided, gives the court here to understand and be informed, that the town and port of New R. in the county of Kent, is an ancient town and port; and that the mayor, jurats, and commonalty of the same town and port of New R. in the county of K. to wit, at the town and port aforesaid, in the county aforesaid; and the office of mayor of the town and port aforesaid is, and for all the time aforesaid hath been a public office and an office of great trust and pre-eminence within the said town and port, touching and concerning the good rule and government of the said town and port, and administration of public justice within the said town and port, to wit, at, &c.; and that H. W. of the said town and port, esquire, upon, &c. and from thenceforth continually hitherto, at the town and port aforesaid, in the county aforesaid, hath used and exercised, and still doth there use and exercise, without any lawful warrant, royal grant, or right whatsoever, the office of mayor of the town and port aforesaid, and during all the time last above-mentioned hath there claimed and yet claims to be mayor of the said town and port aforesaid, and during all the time last above-mentioned to have, use, and enjoy all the liberties, privileges, and franchises to the said office of mayor of the said town and port belonging and appertaining; of which said office, liberties, privileges, and franchises the said H. W. upon our said lord the king for all the time aforesaid hath usurped, and still doth usurp, to wit, at, &c. in contempt of our said lord the king, and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity, &c.; whereupon the said coroner and attorney of our said lord the king prays the consideration of the court here in the premises, and that due process of law may be awarded against the said H. W. in this behalf, to answer to our said lord the king by what warrant he claims to have, use, and enjoy the office, privilege, liberties, and franchise aforesaid: wherefore the constable of the castle of our said lord the king of Dover, in the said county of Kent, or his deputy there, is commanded that he cause him to come to answer to our said lord the king touching and concerning the premises aforesaid.

And now, that is to say, upon the same Friday next, &c. in this same term, before our said lord the king at W. H. W. against whom the said information is above exhibited, by the name and addition of the said town and port, esquire, comes in his own proper person, and having heard the information read, Plea in abatement, wrong addition, esquire instead of yeoman.

REPLICATION.—DEMURRER TO A JOINDER.

prayeth judgment of the same ; because he says, that he the said H. W. at the time of exhibiting the said information, and long before was, and now is a yeoman, to wit, at, &c. and by the name and addition of H. W. yeoman, at the said time of exhibiting of the said information, and long before was and still is there called and known, and is not nor at the time of exhibiting the said information, or ever was an esquire ; and this he is ready to verify and prove as the court shall award ; therefore he the said H. W. by reason he is not named in the said information by the said addition of yeoman, prayeth judgment of the said information, that the same may be quashed and wholly taken for nought, &c.

Replication.

And the said J. B. esquire, coroner and attorney of our said lord the king, before, &c. who prosecutes for our said lord the king in this behalf, for the said lord the king says, that for any thing above alledged by the said H. W. in his plea, the information aforesaid ought not to be quashed ; because he says, that the said H. W. on the day of exhibiting of the information aforesaid was an esquire ; and this the said coroner and attorney of our said lord the king prays may be enquired of by the country, &c.

Demurrer.

And the said H. W. having heard the said plea of the said coroner and attorney by him in form aforesaid above pleaded in reply to the said plea of him the said H. W. above pleaded in abatement, saith, that the said plea of the said coroner and attorney, by him in manner and form aforesaid above pleaded in reply, and the matters therein contained are not sufficient in law to maintain and prevent the said information from being quashed, to which said plea so pleaded in reply as aforesaid, he the said H. W. hath no need nor is he obliged by the law of the land to answer by way of rejoinder ; and this he is ready to verify as the court shall award ; wherefore for want of a sufficient replication in this behalf the said H. W. as before prayeth judgment of the said information, and that the same may be quashed and wholly taken for nought, &c.

Joinder in demurrer.

And the said J. B. the coroner and attorney of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, says, that the replication aforesaid made for our said lord the king, and the matters therein contained, are good and sufficient in law for our said lord the king to maintain his said information against the said H. W. and to prevent the same from being quashed, which said replication and the matters therein contained the said coroner and attorney of our said lord the king, for our said lord the king is ready to verify and make good as the court shall award, and because that the said H. W. doth not answer to the replication aforesaid, nor in anywise gainsay the same, the said coroner and attorney of our said

said lord the king prays judgment, and that the said information aforesaid may be adjudged good, and further prays that the said H. W. may be convicted of the premises above charged upon him in the information aforesaid, and that he may be forejudged and excluded from the aforesaid office of mayor of the town and port of New. R. aforesaid, and from the liberties, privileges, and franchises belonging and appertaining to the said office, and because the court of our said lord the king is not as yet advised; &c.: Whereupon the premises being seen and fully understood by the said court here, it appears to the said court here that the said replication by the said coroner and attorney of our said lord the king in manner and form aforesaid, and the matters therein contained are good and sufficient in law for our said lord the king to maintain the said information against the said H. W. notwithstanding any thing by the said H. W. above alledged; wherefore it is ordered by the said court here that the said H. W. do further answer to the said information.

Judgment of
respondens ouster.

AND now, that is to say upon, &c. in this same term, before our said lord the king at W. cometh the said J. S. by R. R. his attorney, and having heard the said information read, he complaineth that under colour of the premises in the said information contained, he is greatly vexed and troubled, and that by no means justly, because protesting that the said information and the matters therein contained are sufficient in law, and that he need not nor is he bound by the law of the land to answer thereto; for plea he the said J. G. saith, that he doth not think that our said lord the king should or ought to impeach or trouble him the said J. G. by reason of the premises in the said information mentioned and specified; because he saith, that true it is that the said town and port of New Romney, in the county of Kent, is an ancient town and port, to wit, at the town and port aforesaid, in the county of K. aforesaid, as by the said information is above supposed; and that the office of freeman of the town and port aforesaid is, and for all the time in the said information in that behalf mentioned hath been a public office of great trust and pre-eminence within the same town and port, touching and concerning the good rule and government of the same town and port, as by the said information is above supposed; but the said J. G. for plea further saith, that our sovereign lady Elizabeth, late queen of England, by her letters patent under her great seal of England, bearing date at W. on the eleventh day of August, in the fifth year of our reigh, reciting in the said letters patent, "that whereas the batons and inhabitants of the
"town and port of New Romney, in her county of Kent,
"being one of her Cinque Ports, had been from time out of
"mind a body corporate, by the name of jurats and commonalty
"of the town and port of New Romney, in the county of
"Kent, as the said late queen was informed, and that strifes
"and

“ and discords had very often arisen among the jurats of the
 “ said town and port, for that none of the jurats of the said
 “ town had preference before the rest of the jurats for the better
 “ government of the said town and port, and her subjects in-
 “ habiting there for ever afterwards, of her special grace and
 “ of certain knowledge and mere motion did for herself, her
 “ heirs, and successors will and grant to the barons and inha-
 “ bitants of the said town and port of New R. who before that
 “ time had been incorporated by the name of jurats and com-
 “ monalty of the town and borough of New R. in the county
 “ of K. as the late queen was informed, should for ever after-
 “ wards be one body corporate in itself in deed and name, by
 “ the name of mayor, jurats, and commonalty of the town and
 “ port of New R. in the county of Kent;” and by the said
 letters patent the said late queen did for ever make, create, or-
 dain, unite, and incorporate them into one body in deed and in
 name, by the name of the mayor, jurats, and commonalty of the
 town and port of New R. in the county of K.; and that the said
 late queen did by the said letters patent make and ordain J. C.
 then one of the jurats, to be mayor of the said town and port of
 New R. to have and exercise that office till, &c. then next to
 come, if she should so long live, and also made, ordained, ap-
 proved, and confirmed by the said letters patent J. P. W. E.
 &c. then jurats of the same town and port, to have and exer-
 cise that office during the life of every of them, in the same
 manner and form as the jurats within the same town and port
 of N. R. had theretofore exercised their offices; and the said
 late queen did by her said letters patent for herself, her heirs,
 and successors further will and grant that the said mayor, jurats,
 and commonalty, and their successors, should ever use and
 enjoy in all respects, as well within the town and port aforesaid
 as within the members of the same, and elsewhere, all and
 singular so many, as great, such, the same, such sort, and the
 like franchises, privileges, court leets, views of frankpledge, fairs,
 profits, exemptions, apportionments, jurisdictions, customs, li-
 berties, and hereditaments, as by the name of jurats and com-
 monalty of the town and port of N. R. aforesaid, they had be-
 fore that time had and enjoyed, or ought to have used and en-
 joyed; and that they and their successors, and all other the barons
 and inhabitants of the town and port of N. R. aforesaid,
 and of its members for the time being, their heirs and successors;
 and also all and singular the marshes, lands, tenements, or
 hereditaments within the town and port aforesaid, or where the
 members of the same should for ever after be in all and singular the
 marshes wheresoever as free as the mayor, jurats, and commonalty
 of the town and port of S. or any other town or port of her
 Cinque ports, or in any of them, or in the marshes, &c. of the
 same then were, had been, or ought to have been, as by the said
 letters patent, inrolled and now remaining of record in the high
 court of chancery of our said present sovereign lord the king,
 amongst

amongst other things, relation being thereunto had, it more fully appears; which said letters patent the said mayor and commonalty of the said town and port of New Romney afterwards, that is to say, upon the fourth day of August, in the said year of the reign of the said late queen, did accept and agree to, that is to say, at the town and port of New R. aforesaid, in the county aforesaid: And the said J. G. for plea further saith, that the town and port of S. in the said county of K. is and time out of mind hath been another ancient town and port, and one of the ancient Cinque Ports of this kingdom, and within the said town and port of S. there is, and from time whereof, &c. hath been a certain ancient and laudable custom there used and approved of within the said town and port, that if any person of the age of twenty-one years and upwards, being resident and inhabiting within the said town and port of S. hath married the daughter of any freeman of the said town and port of S. such daughter being born after the swearing and admission of her said father into and during his continuance in the office of a freeman of the said town and port of S. such person so marrying such daughter as aforesaid, and being resident and inhabiting within the said town and port, hath always had for and during all the time aforesaid a right in respect thereof to be sworn and admitted into the office of a freeman of the said town and port aforesaid: And the said J. G. for plea further saith, that the town and port of Dover, in the said county of Kent, is and from time out of mind hath been another ancient town and port, and one of the Cinque Ports of this kingdom, and that within the said town and port of Dover there is, and from time whereof, &c. hath been a certain ancient and laudable custom used and approved of within the said town and port of Dover, that if any person of the age of twenty-one years and upwards, being resident and inhabiting within the said town and port of Dover, such daughter being born after the swearing and admission of her said father into and during his continuance in the office of a freeman of the said town and port of Dover, such person so marrying such daughter as aforesaid, and being resident and inhabiting within the same town and port, hath always had for and during all the time aforesaid a right in respect thereof to be sworn and admitted into the office of a freeman of the said town and port: And the said J. G. for plea further saith, that the sole right of swearing and admitting him the said J. G. into the office of a freeman of the said town and port herein after mentioned was in the mayor and jurats, or in the mayor or any two jurats of the same town and port for the time being: And the said J. G. for plea further saith, that he the said J. G. on the, &c. and long before, and ever since resided and dwelt within the said town and port of N. R. in the said county of K.; and the said J. G. being at the time resident and dwelling within the said town and port of N. R. in the said county of Kent, and being then

of the age of twenty-one years and upwards, did, at the town and port of N. R. aforesaid, upon the said day of 1727, marry Elizabeth Smith, daughter of W. S. clerk, then deceased, who was then in his lifetime one of the freemen of the said town and port of N. R. the said E. being born after the swearing and admission of her said father into and during his continuance of the office of a freeman of the said town and port of N. R. aforesaid, to wit, at, &c. in consequence whereof and by virtue of the said letters patent and of her said late majesty queen Elizabeth, he the said J. G. had a right and became liable to be sworn and admitted into the office of a freeman of the said town and port of N. R. : And the said J. G. for plea further saith, that having obtained such freedom, and being intituled as aforesaid, he the said J. G. was afterwards, that is to say, on the twenty-fifth day of March, in the seventh year of the reign, &c. at the town and port of N. R. aforesaid, sworn and admitted into the office in due manner and form of one of the freemen of the said town and port of New R. before J. C. esquire, the then mayor of the said town and part of N. R. &c. then two of the jurats of the said town and port, being then and there assembled and met together in due manner for that purpose ; by reason of which said premises he the said J. G. on the said twenty-fifth day of March, in the year aforesaid, and from thence for all the time in the said information above in that behalf mentioned, was and now is one of the freemen of the said town and port of New R. aforesaid, in the county of K. ; and by that warrant he the said J. G. on, &c. in the said information mentioned, and from thence continually, at the town and port aforesaid, in the county aforesaid, hath used and exercised, and still doth there use and exercise the said office of a freeman of the said town and port, and during all the said time last above-mentioned hath there claimed and yet doth there claim to be one of the freemen of the said town and port, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a freeman of the said town and port belonging and appertaining as it was lawful for him to do, that is to say, at the town and port of N. R. aforesaid, in the county of K. aforesaid ; without this, that the mayor, jurats, and commonalty of the said town and port of N. R. in the county of K. at the time of exhibiting the said information and for ten years then last past and long before, were one body corporate and politic in deed and in name of mayor, jurats, and commonalty of the town and port of N. R. in the county of K. as in the same information is above alledged, and also without this that the said J. G. did or doth usurp upon our said lord the king the said office, liberties, privileges, and franchises in manner and form as by the said information is above supposed, all and singular which said matters and things, he the said J. G. is ready to verify and prove as the court shall award ; whereupon

he prays judgment, that he may be dismissed and discharged of and from the premises above charged upon him, &c.

Note. The information in this is the same as the foregoing information, only that the foregoing one is against the mayor of New Romney, and this is against one of the freemen.

And the said J. B. esquire, the coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, having had oyer of the said plea of the said J. G. says, that for any thing before alledged in the said plea the said lord the king ought not to be barred from having his aforesaid information against the said J. G. because protesting that the said plea of the said J. G. and the matters therein contained are insufficient in law to bar our said lord the king from having his aforesaid information against the said J. G. for plea the said coroner and attorney of our said lord the king, for the said lord the king says, that the said J. G. by marrying the said E. S. the daughter of the said W. S. above-mentioned in his plea aforesaid, had not a right, nor did become intitled to be sworn and admitted into the office of freeman of the said town and port of New R. as the said J. G. hath above alledged in his plea aforesaid in that behalf, and this the said coroner and attorney of our said lord the king, for the said lord the king prays may be enquired of by the country, &c.; And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the sole right of swearing and admitting freemen of the town and port of N. R. aforesaid, is not, nor at the aforesaid time in which it is alledged by the said J. G. in his aforesaid plea that he was sworn and admitted into the office of a freeman of the said town and port, was not in the mayor and jurats, or in the mayor or any two jurats of the same town and port for the time being, as the said J. G. hath in his plea aforesaid in that behalf above alledged, and this the said coroner and attorney of our said lord the king, for our said lord the king also prays may be enquired of by the country, and the said J. G. doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the said J. G. was not sworn and admitted one of the freemen of the said town and port of N. R. as the said J. G. hath above by his said plea in that behalf alledged; and this the said coroner and attorney of our, &c. prays may be enquired of by the country, &c.: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the mayor, jurats, and commonalty of the port of New R. in the said county of K. at the aforesaid time of exhibiting the information aforesaid, and for years then last past, and long before, were one body corporate and politic in deed and in name, by the name, &c. as is above alledged in the information aforesaid; and this the said coroner and attorney of our said lord the king also prays may be enquired of by the country,

And

Rejoinder.

And the said J. G. having heard the said plea of the said coroner and attorney by him in form aforeaid above pleaded in bar, as to that part of the said plea of the said coroner and attorney of our said lord the king that he the said J. G. by marrying the said E. S. the daughter of the said W. S. above-mentioned in the said plea of him the said J. G. had not a right, nor did become intitled to be sworn and admitted into the office of freeman of the said town and port of N. R. and also as to that part of the said plea of the said coroner and attorney, &c. by him so pleaded in reply as above, and wherein it is alledged by the said coroner and attorney, that the mayor, jurats, and commonalty of the town and port of N. R. in the said county of K. at the aforeaid time of exhibiting the said information, and for ten years then last past, and long before, were a body corporate and politic in deed and in name, by the name of the mayor, jurats, and commonalty of the town and port of N. R. in the said county of K. saith, that the said plea of the said coroner and attorney of our said lord the king by him so pleaded in reply as aforeaid, and the matters therein contained are not sufficient in law to convict him the said J. G. of the aforeaid premises in the said information mentioned, or to forejudge and exclude him from the office, liberties, privileges, and franchises aforeaid, to which said plea so pleaded in reply as aforeaid, as to that part as is alledged by the coroner and attorney that he the said J. G. by marrying, &c. &c. he the said J. G. hath no need, nor is he obliged by the law of the land to answer by way of rejoinder; wherefore for want of a sufficient replication in this behalf, the said J. G. prayeth judgement, and that the said office, liberties, privileges, and franchises may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him in that respect, &c.

Surrejoinder.

And the said J. B. coroner and attorney of our said lord the king, &c. says, that the replication aforeaid as to this, that the said J. G. marrying the said E. S. daughter of the said W. S. had not a right, nor did become intitled to be sworn and admitted into the office of freeman of the said town and port of N. R. by him the said coroner and attorney above made and pleaded for our said lord the king, and the matters therein contained are good and sufficient in law for our said lord the king in that behalf to maintain the aforeaid information against the said J. G. and to convict him of the premises in the said information mentioned, which said replication in that behalf and the matters therein contained the said coroner and attorney of our, &c. is ready to verify and make good as the court shall award; and because the said J. G. doth not answer to the said replication in this behalf, nor in any wise gainsay the same, the said coroner and attorney of, &c. prays judgment, and that the said J. G. may be convicted of the premises above charged upon him by the information aforeaid; and the said coroner and attorney of, &c. says, that the replication
aforeaid

QUO WARRANTO.—JUDGMENT IN.

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aforesaid as to this, that the mayor, jurats, and commonalty of the town and port of N. R. in the county of Kent, at the aforesaid time of exhibiting of the aforesaid information, and for ten years then last past, and long before, were one body corporate and politic in deed and in name, by the name of the mayor, jurats, and commonalty of the town and port of N. R. in the county of K. by him the said coroner and attorney above named and pleaded for our said lord the king, and the matters therein contained are good and sufficient in law for our said lord the king in that behalf to maintain the information against the said J. G. and to convict him of the premises in the said information mentioned; which said replication in that behalf and the matters therein contained the said coroner and attorney of our said lord the king, for our said lord the king, is ready to verify and make good as the court shall award; and because the said J. G. doth not answer to the aforesaid replication in this behalf, nor in anywise gainsay the same, the said coroner and attorney of, &c. for, &c. prays judgment, and that the said J. G. may be convicted of the premises above charged upon him by the information aforesaid.

At which day, that is to say, at the three weeks from the day of St. Michael, before our said lord the king at W. comes as well the said J. B. esquire, coroner and attorney of our said lord the king, who prosecutes for our said lord the king in this behalf, as the said J. G. his attorney, and the said justices of our said lord the king, before whom to hold the assizes, &c. have sent here their record had before them in these words, afterwards, &c. (here set out the *postea verbatim*) and hereupon all and singular the premises, as well and singular the matters in law above put in judgment of the said court of our said lord the king here, as the said several matters above put in issue and tried by the country, being seen and fully understood by the court here, it appears to the court here that the said replication of the said coroner and attorney of our said lord the king as to this, that the said J. G. by marrying the said E. S. the daughter of the said W. S. had not a right, nor did become intitled to be sworn and admitted into the office of a freeman of the town and port of N. R. for the said lord the king above pleaded, and the matters therein contained are not good and sufficient in law for our said lord the king to maintain the information of the said J. G. and to convict him of the premises in the said information mentioned: And it appears further to the court here, that the said replication of the said coroner and attorney of our said lord the king as to this, that the mayor, jurats, and commonalty of the said town and port of New R. in the said county of Kent, at the said time of exhibiting of the said information, and for ten years then last past, and long before, were one body corporate and politic in deed and in name, by the name of the mayor, jurats, and commonalty of the town and port of N. R. in the county of Kent, for our said lord the king

INFORMATIONS.

king above pleaded, and the matters therein contained are good and sufficient in law for our said lord the king in this behalf to maintain the information aforesaid of the said J. G. and to convict him of the premises in the said information mentioned, and it also appears to the said court here, from the confession of the said J. G. in the plea above acknowledged, and from the verdict aforesaid, in form aforesaid given against the said J. G. that the said J. G. hath usurped and still doth usurp upon our said lord the king the office, privileges, and franchises aforesaid, in manner and form as in the said information is above charged upon him; therefore it is considered by the said court here, that the said J. G. no wise intermeddle with nor in the said office, liberties, privileges, and franchises, nor any of them, but that he be from henceforth wholly forejudged from exercising and using the same and every of them, and that the said J. G. be taken to satisfy our said lord the king for the usurpation aforesaid, and that the said W. J. the relator above named in this behalf, recover against the said J. G. the sum of for his costs and charges by him expended and laid out in and about his suit in this behalf, according to the form of the statute in such case made and provided, and as to the matters of law above put in judgment of the said court here, as to the said replication of the said coroner and attorney as to this, that the said J. G. by marrying the said E. S. the daughter of the said W. S. had not a right, nor did become entitled to be sworn and admitted into the said office of freeman of the said town and port of N. R. for the said lord the king above pleaded, it is further considered by the said court here, that the said J. G. be dismissed thereof and discharged by the court here, and that he go thereof without delay, &c.

Information *quo*
varrante, defend-
ant usurps the
office of bailiff
and presiding
officer of the bo-
rough and town
of Ain.

BE it remembered, &c. gave the court here to understand and be informed, that the borough and town of Ain, in the county of S. is an ancient town and borough, and that the burgesses of the said town and borough are, and for the space of ten years now last past, and long before have been one body corporate and politic in deed, fact; and name, by the name of the bailiffs, approved men, and burgesses of the borough of A. to wit, at, &c. and that during all the time aforesaid, the bailiff for the said town and borough for the time being hath been and ought to have been, and now ought to be within the said town and borough presiding officer of the said town and borough, to wit, at, &c. and during all the time aforesaid, the said bailiff, the said steward or his deputy, the said approved men, and the said burgesses of the said town and borough for the time being, or the major part of them, of whom the bailiffs of the said town and borough for the time being during all the time aforesaid have been, or ought to have been, and now ought to be one, have yearly, and every year upon Monday before the feast of the Holy Cross, elected and nominated, or ought to have elected and nominated, and now ought to elect and nominate one out of the
number

QUO WARRANTO.

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number of the said ten approved men to be bailiffs of the said borough or town aforesaid, from, &c. then next following, for one whole year next following the feast, &c. and that after such person hath been so elected and nominated into the bailiwick of the said borough or town as aforesaid, he hath immediately after such his election and nomination for and during all the time aforesaid, taken or ought to have taken, and now ought to take his corporal oath in the court or council house of the said borough before the bailiff then being his last predecessor if living, and before the steward of the said borough or town or his deputy for the time being, or otherwise if the said bailiff being his last predecessor was not then living, then before the said steward or his deputy, and the said approved men of the said borough and town aforesaid for the time being, or the major part of them for the time being in lawful execution and exercise of the said office of bailiff of the borough or town aforesaid, and that such person so elected and nominated as aforesaid, after such oath so taken, hath during all the time aforesaid executed, or ought to have executed, and now ought to execute the said office of bailiff of the said borough or town for one whole year, beginning from the, &c. then next following such election, to wit, at, &c. and the said coroner and attorney, of, &c. for, &c. gives the court here further to understand and be informed, that the said office of bailiff of the said borough or town is, and during all the time aforesaid hath been a public office and an office of great trust and pre-eminence within the said borough or town touching the rules and government of the said borough or town, to wit, at, &c. and that T. G. of the said borough, draper, T. S. &c. upon, &c. and from thence continually to this time, at the borough or town of A. aforesaid, in the county of S. aforesaid, without any legal warrant, royal grant, or right whatsoever, hath used and exercised, and yet doth there use and exercise the liberty, privilege, and franchise of voting at and in the election and nomination of one of the number of the said ten approved men of the said borough or town to be bailiffs of the said borough or town aforesaid, and also for and during all the time aforesaid, at the borough or town aforesaid, without any legal warrant, royal grant, or right whatsoever, have used and exercised, and yet doth there use and exercise, and each and every of them have then and there used and exercised, and yet doth then and there use and exercise the liberty, privilege, and franchise of electing and nominating one out of the number of the said ten approved men of the said borough or town to be bailiff of the said borough or town, and also for and during all the time aforesaid, they the said J. G. &c. have then and there claimed, and yet do there claim to have, use, and enjoy the liberty, privilege, and franchise, at and for the election of one out of the number of the said ten approved men of the said borough or town to be bailiffs of the said borough or town aforesaid, and also for and during all the time aforesaid have then and there claimed, and yet do then and there claim,

INFORMATION, DEMURRER TO.—JOINDER;

claim, and each and every of them hath then and there claimed to have, use, and enjoy the liberty, privilege, and franchise of electing and nominating one out of the said number of the said ten approved men of the said borough or town to be bailiff of the said borough or town aforesaid, and to which said liberties, privileges, and franchises, they the said J. G. &c. for and during all the time aforesaid have usurped, and yet do usurp, and each and every of them hath usurped, and still doth usurp upon our said lord the king, that is to say, at, &c. in contempt of our now said lord the king, and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner and attorney for our said lord the king prays the consideration of the court here in the premises, and that due process of law may be awarded against them the said J. G. &c. and each and every of them in this behalf, to answer to our said lord the now king by what warrant they claim, and each and every of them doth claim to have, use, and enjoy the liberties, privileges, and franchises aforesaid; wherefore the sheriff of the county of S. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause them to come to answer to our said lord the king touching and concerning the premises aforesaid.

Demurrer.

And now, that is to say, on, &c. in this same term, before our said lord the king, at W. came the said J. G. &c. by A. B. their attorney, and having heard the said information read, they severally say that our said lord the king ought not to impeach or implead them the said J. G. &c. or any of them by reason of the premises in the said information above mentioned and specified, because they severally say that the said information, and the matters therein contained are insufficient in law, and that they need not, nor are any of them obliged by the law of the land to answer thereto; whereupon for the insufficiency thereof they severally pray judgment, and that they and every of them may be discharged and dismissed by the court here of and from the premises above charged upon them.

Joinder;

And the said J. B. esquire, coroner and attorney of our said lord the king, in the court of our said lord the king, before the king himself, who prosecutes for our said lord the king in this behalf, having had oyer of the said plea of the said J. G. &c. by them the said J. G. &c. in manner and form aforesaid above pleaded by way of demurrer, for our said lord the king saith, that the said information and the matters therein contained are sufficient in law to compel them the said J. G. &c. to answer thereto, and to convict them the said J. G. &c. of the premises above charged upon them in the said information and the matters therein contained, he the said coroner and attorney of our said lord the king, for, &c. is ready to verify and prove as the court shall award; wherefore since that the said J. G. &c. have not, nor hath any of them

them answered to the said information, nor in any wise denied the matters therein contained, he the said coroner and attorney of, &c. for, &c. prays judgement, and that the said J. G. &c. may be convicted of the premises above charged upon them in and by the said information, and that they and every of them may be forejudged and excluded of and from the liberties, privileges, and franchises aforesaid; and because the court of our said lord the king is not as yet advised upon giving their judgment touching and concerning the matters aforesaid, a day is therefore given as well to the said J. B. esquire, who prosecutes for our said lord the king in this behalf, as to the said J. G. &c. before our said lord the king, until fifteen days, &c. wheresoever, &c. in order to hear their judgment in that behalf, for that the said court here is not as yet advised thereupon.

Cor. adv. vult.

LONDON, to wit. Be it remembered that J. B. coroner and attorney of our, &c. &c. in this behalf prosecutes in his proper person comes here into the court of our said lord the king, before the king himself, at W. on Wednesday next, &c. upon the relation of A. B. of, &c. according to the form of the statute in such case made and provided, and gives the court here to understand and be informed, that the city of London, in the county of the same city is, and from time whereof, &c. hath been an ancient city, and that the mayor and commonalty and citizens of the said city of London now are, and for the space of ten years now last past, and long before have been a body corporate and politic in deed and name, by the name of mayor, and commonalty, and citizens of London, and that within the same there is, and for the space of ten years now last past, and long before, hath been a company, or society, or commonalty of freemen of the mystery of coopers of London, and of the suburbs of the same city, to wit, at London, in the ward, &c. and that the masters and wardens, or keepers and commonalty of the said company or society of the mystery of coopers of London, and of the suburbs of the city are, and for and during all the said time above-mentioned have been one body corporate and politic in deed and name, and are, and during all the said time last above-mentioned have been called and known by the name of master, warden, or keeper of the commonalty of freemen of the mystery of coopers of London, and of the suburbs of the same city, to wit, at London aforesaid, in, &c. and that within the said city there are, and during all the said time last above-mentioned have been, and now of right ought to be an indefinite number of freemen of the said corporation elected, chosen, and admitted by the said corporation of master, wardens, or keepers of the commonalty of freemen of the mystery of coopers of London, and of the suburbs of the same city, to be of the livery of the said company; and the freemen of the said company so elected, chosen, and admitted by the said corporation of master, wardens, or keepers of the commonalty of freemen

*Information given
warrants, defen-
dant claims to
be master of the
company of
coopers in Lon-
don.*

INFORMATION.—PLEA TO.

freemen of the mystery of coopers of London, and of the suburbs of the same city, of the said livery of the said company for the time being, during all the said time last above-mentioned have voted, or of right ought to vote for the election of members of the said city to serve for the commons in the parliament of Great Britain, to wit, at London aforesaid, &c. and the said H. N. late of London, cooper, upon the day of , in the seventh year of, &c. and from thence continually hitherto at London aforesaid, in the parish and ward aforesaid, without any legal warrant, royal grant, or right whatsoever, hath used and exercised, and yet doth there use and exercise the office of the master of the said company or commonalty, and for and during all the time aforesaid the said H. N. hath there claimed, and yet doth claim to be master of the company and commonalty aforesaid, and to have, use, and enjoy all the liberty, privileges, and franchises to the said office of master of the said company or commonalty belonging and appertaining, concerning which said office, liberties, privileges, and franchises, the said H. N. upon our said lord the king for all the time aforesaid hath usurped, and yet doth usurp, to wit, at, &c. in contempt of our said lord the king, and to the great damage and prejudice of his royal prerogative, and also against the peace of our said lord the king, his crown and dignity; whereupon the said coroner and attorney of our said lord the king, for, &c. prays the consideration of the court here in the premises, and that due process of law may be awarded against him the said H. N. in this behalf, to answer to our said lord the king by what warrant he claims to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid, &c.

Plea to an in-
formation
warrant.

And now, that is to say, on Wednesday, &c. before, &c. at &c. comes the said J. W. by A. B. his attorney, and having heard the said information read, complains that under colour of the premises in the said information contained, he is greatly vexed and troubled, and that by no means justly, because that said information, and the matters therein contained are by no means sufficient in law, and that he need not, nor is he obliged by the law of the land to answer thereto, yet for plea he the said J. W. says, that he does not think that our said lord the king should or ought to impeach or trouble him the said J. W. by reason of the premises in the said information mentioned and specified, because he saith, that true it is that the borough, &c. is, and from time, &c. hath been an ancient borough, and that within the said borough there is, and for the whole time aforesaid hath been one body corporate and politic, called or known by the name, &c. consisting, &c. and an indefinite number of burgeses of the said borough, and that the office of burges of said borough is, and for the whole time before hath been a public office and an office of great trust and pre-eminence within, &c. touching the rule and government of, &c. as by the said information is above supposed: And the said J. W. further saith, that within the said borough

rough of C. there is, and hath been time out of mind an ancient and laudable custom used and approved of in the said borough, that the said stewards commonly called, &c. and the burgessees of the said borough for the time being, or the major part of them in that behalf duly assembled within the said borough, have from time to time, &c. nominated, elected, and chosen, and have been used, &c. one or more of the inhabitants of the said borough into the said office or offices of burgeses or burgessees of the said borough; and the said J. W. says that there is, and during all the said time there hath been a court leet or view of frank pledge of our said lord the king that now is, and of his predecessors, held at, &c. before, &c. once in every year, i. e. on, &c. and that there is, and during the whole time aforesaid hath been an ancient and laudable custom used and approved of, to wit, at, &c. i. e. that the burgeses or burgessees of the said borough so nominated, elected, and chosen as aforesaid, during all the time aforesaid, hath and have been, and have been used and accustomed to be sworn into the office or offices of burgeses or burgessees of the said borough at the said court leet or view of frank pledge, held, &c. by the steward of the said court, &c.: And said J. W. further saith, that on, &c. and long before, he the said J. W. was an inhabitant of the said borough of C. to wit, at, &c. and the said J. W. so being as aforesaid an inhabitant of said borough of C. on, &c. J. B. and J. W. then being burgeses stewards of said borough, the major part of the said then burgeses stewards of the said borough then being, did duly assemble and gather themselves together at the common hall of the same borough, within the same borough, in order to nominate, elect, and chuse one or more of the inhabitants of the said borough, according to the custom of the said borough, into the said office or offices of burgeses or burgessees of the said borough, and being so assembled then and there at the assembly by the said major part of the said burgeses stewards and burgessees of the said borough, did nominate, elect, and chuse him the said J. W. then being one of the inhabitants of the said borough as aforesaid, unto the said office of one of the burgessees of the said borough, according to the custom of the said borough, and the said J. W. being so as aforesaid nominated, elected, and chosen into the said office of one of the burgessees of the said borough, he the said J. W. afterwards, to wit, at a court leet and view of frank pledge held at, &c. to wit, on, &c. before, &c. was then and there duly and according to the custom of the said borough sworn into the said office of burgeses of the said borough by the said, &c. and he the said J. W. at the same court then and there took his corporal oath before, &c. for the due execution of the office of a burgeses of the said borough, and all other oaths in that behalf requested, and by virtue thereof he the said J. W. afterwards, to wit, on, &c. and from thence continually afterwards until the time of exhibiting of the said information at the borough aforesaid, was and still is one of the burgessees of the said borough, and by that warrant he the

QUO WARRANTO—REPLICATION.

saïd J. W. for all the time in the saïd information hath there used and exercised, and yet doth use and exercise the office of a burges of the saïd borough, and for all the time aforesaid hath there claimed, and yet doth there claim to be one of the burgeses of the saïd borough, and to have, use, and exercise all the liberties, privileges, and franchises to the office of a burges of the saïd borough belonging and appertaining, without this that he the saïd J. W. the saïd office, liberties, privileges, and franchises in the saïd information above-mentioned, hath usurped upon our saïd lord the king in manner and form as in the saïd information is alledged; all and singular which saïd things he the saïd J. W. is ready to verify as the court shall award; whereupon he prays judgment, and that the saïd office, liberties, privileges, and franchises by him claimed in form aforesaid, may be allowed and adjudged to him, and that he may be discharged and dismissed by the court of and from the premises above charged upon him.

Replication.

And the saïd J. B. esquire, coroner, &c. saith, that for any thing above alledged by the saïd J. W. the saïd lord the king ought not to be barred from having his aforesaid information against the saïd J. W. because he saith, that true it is that in the saïd borough of C. there is, and time out of mind hath been such ancient and laudable custom used and approved in the same borough, that the stewards, &c. burgeses of the saïd borough for the time being, or the major part of them in that behalf duly assembled within the saïd borough, have from time to time, whereof the memory of man is not to the contrary, nominated, elected, and chosen one or more of the inhabitants of the saïd borough into the saïd office of burges or burgeses of the saïd borough, and that there is, and during the whole time aforesaid hath been a court leet and view of frank pledge of our saïd lord the king and his predecessors, held at, &c. before, &c. and that there is such custom that burgeses elected should be sworn at such court leet, and on the saïd fifth day, &c. and long before, the saïd J. W. was an inhabitant of the saïd borough of C. and the saïd J. W. so being, &c. as aforesaid, on, &c. J. B. and J. W. then being burges stewards of the saïd borough, did duly assemble and gather themselves together, at, &c. in order to nominate, elect, and chuse one or more of the then inhabitants of the saïd borough into the saïd office or offices of burges or burgeses of the saïd borough, according to the custom of the saïd borough, as the saïd J. W. hath by his saïd plea above alledged, and the saïd coroner and attorney further says, that true it is that the saïd major part of the saïd burges stewards and burgeses of the same borough, being so assembled as aforesaid, did, at the saïd assembly at common hall of the saïd borough, on, &c. nominate, elect, and chuse him the saïd J. W. then being one of the inhabitants of the saïd borough, but the saïd coroner and attorney further saith, that the saïd J. W. at the aforesaid time of the saïd nomination, election, and chusing him the saïd J. W. into the saïd office of one of the burgeses of the

the said borough, was under the age of twenty-one years, whereby the said J. W. at the time of the said election was incapable of being elected into the office of one of the burgesses of the said borough, and the election of him the said J. W. to be one of the burgesses of the said borough, by reason of such his non-age was null and void; and this the said coroner and attorney is ready to verify; wherefore he for our said lord the king prays judgment, and that he the said J. W. of the premises above charged upon him by the said information may be convicted, &c.

And the said J. W. protesting that the said plea of the said coroner and attorney in manner and form aforesaid, made and pleaded in reply, and the matter within contained are not sufficient in law to convict him the said J. W. of the premises above charged upon him by the said information, nor to forejudge and exclude him from his office, liberties, privileges, and franchises aforesaid, and that he need not, nor is he obliged by the law of the land to answer thereto; and protesting also, that the said J. W. at the time of the said nomination, election, and chusing him the said J. W. into the office of one of the burgesses of the said borough, was of the full age of twenty-one years, to wit, at, &c. and not under the age of twenty-one years as by the said replication is above supposed; yet for plea in this behalf the said J. W. saith, that at the said time when he the said J. W. was chosen into the said office as one of the said burgesses of the said borough as aforesaid, he the said J. W. was of the full age of twenty-one years, to wit, at, &c. and that by reason and means of his the said J. W.'s. being nominated, elected, chosen, and sworn as aforesaid into the said office of one of the said burgesses of the said borough as aforesaid, he the said J. W. was and still is seised of his said office, together with the liberties, privileges, and franchises thereunto belonging, as of his freehold, for the term of his natural life, to wit, at, &c. and that the said J. W. never took upon himself, nor acted, nor used, nor exercised the said office of one of the burgesses of the said borough, until he was sworn into the said office as aforesaid; and this, &c.; wherefore, &c. (Demurrer and joinder.)

WILTSHIRE, to wit. And the said J. B. coroner, &c. saith, that for any thing above alledged by the said R. R. the said lord the king ought not be barred from having his aforesaid information against the said R. R. because he saith, that true it is that in the said borough of C. there is, and time out of mind hath been such ancient and laudable custom used and approved in the same borough, that the steward, commonly called, &c. and burgesses of the said borough for the time being, or the major part of them in that behalf duly assembled within the said borough, have from time to time, whereof the memory of man is not to the contrary, nominated, elected, and chosen, and been used and accustomed to nominate, elect, and chuse one or more of the inhabitants of

Rejoinder.

Replication to a plea to an information in the nature of a *quo warranto* against R. R. for exercising the office of a burgess of Calne. (Plea same as the plea in p. 64 ante.)

QUO WARRANTO.—REPLICATION.

the said borough in the said office or offices of burgeses or burgeses of the said borough ; and that there is, and during the whole time aforesaid hath been a court leet or view of frank pledge of our said lord the king and his predecessors, held at, &c. before, &c. once in every year, to wit, on, &c. ; and that there is, and during all the time aforesaid hath been such ancient and laudable custom used and approved at the said borough ; that the burgeses or burgeses of the said borough so nominated, elected, and chosen as aforesaid, after such, his, or their nomination and election as aforesaid, during all the time aforesaid, hath and have been and ought to be, and hath and have been used and accustomed to be sworn into the said office of burgeses or burgeses of the said borough, at the said court leet and view of frank pledge held at, &c. by the steward, &c. ; and that on, &c. and long before, the said R. R. was an inhabitant of the said borough ; and that the said R. R. so being an inhabitant of the said borough of C. as aforesaid, on, &c. the aforesaid H. T. and the said H. K. then being burgeses, stewards, &c. the major of the said then burgeses, stewards, and burgeses of the said borough did duly assemble and gather themselves together, at, &c. in order to nominate, elect, and chuse one or more of the then inhabitants of the said borough into the office of burgeses or burgeses of the said borough, according to the custom of the said borough ; and being so assembled then and there at the said assembly, the said major part of the said burgeses, stewards, and burgeses of the said borough did nominate, elect, and chuse him the said R. R. then being one of the inhabitants of the said borough as aforesaid, into the said office of one of the burgeses of the said borough, according to the custom of the said borough, as the said R. R. hath by his aforesaid plea above alledged ; but the said coroner and attorney further saith, that the stewards, commonly called, &c. or the major part of them assembled within the said borough for that purpose, have from time whereof the memory of man is not to the contrary, used and been accustomed to make bye laws and ordinances for the better rule and government of the said borough, and of the burgeses and inhabitants of the said borough : And the said coroner, &c. further saith, that on, &c. R. J. and W. C. being then burgeses stewards of the said borough, and also burgeses of the said borough, they the said R. J. and W. C. and the greater part of the then burgeses did duly gather and assemble themselves together within the said borough to wit, at, &c. in order to make bye laws and ordinances for the better rule and government of the said borough, and the inhabitants of the said borough ; and that the said burgeses stewards and the greater part of the said burgeses of the said borough, being so assembled and gathered together as aforesaid, did then and there at the said assembly order and ordain, that if any inhabitant or inhabitants of the said borough should refuse to go to O. aforesaid when the prince's highness's court should be there holden, which was commonly the Saturday after the beginning of Easter term, before, &c.

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&c. to take the oaths of allegiance to the king's most excellent majesty, and to be sworn a burghers of and for the said borough, to help, keep, and maintain the ancient privileges, customs, and liberties which did belong or in any wise appertain unto the said borough, and for to observe and keep all such lawful orders, institutions, and decrees as had been theretofore made for the benefit and profit of the said borough, that then such inhabitant or inhabitants so refusing and denying the same being first thereunto elected and chosen by the burghers of the said borough, or the major part of them, and having notice or warning of such election, as also of the said court, by the stewards or one of them for the time present of the said borough, should be disfranchised and dismissed of his common in the port, &c. and of and from the benefit of any of them for ever afterwards, and likewise should be disfranchised and dismissed of any other liberty, privilege, and custom whatsoever belonging to the said borough, except and without a submission should be made of and by such party and parties refusing as aforesaid, and a consent of all or the major part of the said burghers of the said borough to the contrary thereof, which said ordinance and bye law is yet in full force and unrepealed, and from the time of the making thereof hath been hitherto confirmed and observed by the said burghers stewards and burghers of the said borough in manner aforesaid, and who hath wilfully refused and declined to go to the court leet and view of frank pledge aforesaid, held at, &c. before, &c. next after the time of his election, in order to his being sworn into the said office, hath ever since the making of the said ordinance or bye laws been sworn into the said office of a burghers of the said borough, at any other subsequent leet and view of frank pledge held at, &c. whatsoever, without submission first made in that behalf by such person so refusing and denying as aforesaid, and a consent of all or the major part of the burghers of the said borough to the contrary thereof, according to the true sense, intent, and meaning of the said ordinance or bye law : And the said coroner, &c. further saith, that the court leet or view of frank pledge of our late sovereign lady Anne, &c. held at, &c. next after the election of the said R. R. into the office of one of the burghers of the said borough, &c. was held there on, &c. before, &c.; and although the said R. R. after the said election into the said office of one of the burghers of the said borough, and before the twenty-first, &c. to wit, on, &c. at, &c. had due notice and warning given to him by the said, &c. or one of them of his election aforesaid, and of the time of holding the said court; nevertheless the said R. R. did not at the said court so holden before, &c. or any other court leet or view of frank pledge held at, &c. before, &c. at any time before his the said R. R.'s election aforesaid into the office of one of the burghers of the said borough, was declared to be null and void as hereafter is mentioned, take the oath of a burghers of the said borough, or any other oath in that behalf used and accustomed to be taken by the burghers of the said borough, but refused and denied to go to or appear either

QUO WARRANTO.—REJOINDER.

at the said court leet or frank pledge so held on, &c. or at any other, &c. and to take the oath of a burges of the said borough, and all other oaths in that behalf used and accustomed to be taken by a burges of the said borough at any time before his the said R. R.'s election aforesaid into the office of one of the burgesses of the said borough was declared to be null and void as hereafter is mentioned: And the said coroner and attorney further saith, that the said R. R. never made his submission for such his refusal and denial to take the oaths aforesaid, at, &c. so held at, &c. next after his election as aforesaid, nor ever had he the consent of all or the more part of the burgesses of the said borough to the contrary thereof; wherefore afterwards, that is to say, on, &c. the said H. T. &c. the said then burges steward and the major part of the then burgesses of the said borough being then duly assembled at, &c. did for such refusal and denial of him the said R. R. to attend at the said court leet, &c. so held at, &c. next after the election of him the said R. R. aforesaid, and to take the oaths aforesaid, and for want of consent and submission aforesaid, declared his said election aforesaid into the office of one of the burgesses of the said borough to be null and void: And the said coroner and attorney doth aver, that the said court called, &c. in the said ordinance and bye law mentioned, and the said court leet, &c. in the said plea of the said R. R. mentioned, are one and the same court, and not other nor different; and so the said coroner, &c. saith, that the said R. R. claiming to use and exercise, and using and exercising the aforesaid office of a burges of the said borough of C. and the liberties, privileges, and franchises belonging to that office, by colour and under pretence of his election aforesaid, without taking the oath of the office of a burges of the said borough, and the other oaths in that behalf used and accustomed to be taken by the burgesses of the said borough, at the next court leet and view of frank pledge held at, &c. after his election aforesaid, and without making such submission and having such consent as aforesaid, and notwithstanding his said election was declared null and void as aforesaid, hath usurped and doth usurp the offices, privileges, and franchises aforesaid, upon our said lord the king, in manner and form as the said coroner, &c. by the said information aforesaid for our, &c. hath above alledged; and this, &c.; wherefore, &c.: And the said coroner, &c. for our said, &c. further saith, that the said R. R. was not sworn into the said office of burges of the said borough, in manner and form as he the said R. R. hath by his plea aforesaid above alledged; and this the said coroner; &c. prayeth, &c.

Rejoinder.

And the said R. R. as to the said plea of the said coroner, &c. first above pleaded in reply, protesting that the said plea in manner and form aforesaid above pleaded in reply, and the matter therein contained are not sufficient in law to convict him the said R. R. of the premises above charged upon him by the said information, nor to forejudge or exclude him from his office, liberties,

ties, privileges, and franchises aforesaid, to which he need not, nor is he obliged by the law to answer; and protesting also that after the said election of him the said R. R. into the said office of one of the burgesses of the said borough, and before the then next court leet, &c. held at, &c. next after the election of him the said R. R. into the said office, he the said R. R. had not any notice or warning by him the said, &c. the then burgess stewards of the said borough, nor by either of them of the said election of him the said R. R. or the time of the holding the then next court leet, &c. as by the said replication is above alledged; and protesting also that the said R. R. did not refuse or deny to go or to appear at the said court leet, &c. held at, &c. in, &c. as by the said replication is above also alledged; yet the said R. R. for plea in this behalf saith, that he the said R. R. never had any summons or notice to appear at the said assembly in the said replication mentioned, to be holden on, &c. before, &c. to make such submission as in the said replication is mentioned, or to shew cause why he should not be disfranchised or dismissed from his said office of burgess of the said borough, nor hath he the said R. R. at any time after his said election, and before his being sworn into the said office as aforesaid, had any summons or notice to appear at any other assembly holden at the said borough, before the burgess stewards and the burgesses of the said borough, for the time being, to make such submission, or to shew cause as aforesaid; and this, &c.; wherefore, &c. (Demurrer and joinder in demurrer.)

HAMPSHIRE. Be it remembered that sir J. B. knight, Information *quo*
coroner and attorney of, &c. who prosecutes for, &c. cometh *warranto*; de-
here into the court, &c. at, &c. and for our said lord the king, *fendant* claims
at the relation of T. P. of, &c. according to the form, &c. giv- to be burgess of
eth the court here to understand and be informed, that the bo- the borough of
rough of P. in the county of S. is an ancient borough, and that P.
the burgesses of the said borough now are and for the space of
thirty years now last past and upwards have been, and now are
one body politic and corporate in deed, fact, and name, by the
name of, &c.; and that within the said borough for and during
the whole time aforesaid, there have been or ought to have been,
and of right ought to be a mayor, twelve aldermen, and recorder,
and an indefinite number of burgesses of the said borough, that is
to say, at the borough of P. aforesaid; and that the place, office,
and franchise of a burgess of the said borough for and during the
whole time aforesaid, hath been and still is a place, office, and
franchise of great trust and pre-eminence within the said borough,
touching the rule and government of the said borough, and the
administration of public justice within the said borough, that is,
at the borough of P. aforesaid, in the said county; and that W. C.
of P. in the said county, esquire, upon, &c. at, &c. did use and
exercise, and from time continually to the time of exhibiting this
F 4. information

QUO WARRANTO.—PLEA.

information hath there used and exercised, and still doth there use and exercise, without any legal warrant, royal grant, or right whatsoever, the place, office, and franchise of one of the burgesses of the said borough, and for and during all the time last above-mentioned hath there claimed, and still doth there claim, without any legal, &c. to be one of the burgesses of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the said place and office of one of the burgesses of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the said place and office of one of the burgesses of the said borough belonging and appertaining; which said place, office, franchise, liberties, and privileges he the said W. C. for and during all the time last above-mentioned, upon our said, &c. without any legal, &c. hath usurped, and still doth usurp, that is, at, &c. in contempt, &c.; whereupon the said coroner and attorney of, &c. prays the consideration of the court here in the premises, and that due process of law may be awarded against him the said W. C. in this behalf to make him answer to our said lord the now king, and shew by what authority he claims to have, use, and enjoy the place, office, franchise, liberties, and privileges aforesaid; wherefore, &c.

Plea.

And now at this day, *i. e.* on, &c. before our, &c. at W. comes the said W. C. by A. B. his attorney, and having heard the said information read says, that under colour of the premises contained in the said information he is greatly troubled, and this by no means justly, because protesting that the said information and the matter therein contained are not sufficient in law, and that he need not, nor is he obliged by the law of the land to give any answer thereto; yet for plea in this behalf the said W. says, that he does not apprehend that our said lord the king should or ought further to trouble or impeach him by reason of the premises in the said information contained, because he says, that true it is that the said borough of, &c. is an ancient borough, and that the said burgesses of the said borough now are, and for the space of thirty years now last past have been and now are one body corporate and politic in deed, fact, and name, by the name, &c. and that within the said borough for and during all the time aforesaid there have been and now of right ought to be a mayor, twelve aldermen, and an indefinite number of burgesses, *i. e.* at, &c. and that the place, office, and franchise of a burgess of the said borough for and during all that time in the said information specified hath been and still is a place, &c. of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within, *i. e.* at, &c.; but the said W. C. further saith, that the said borough of P. from time immemorial was an ancient town and borough, and that the burgesses of the said borough during, &c. have been one body corporate and politic in deed, fact, and name, and for all the time aforesaid, until the granting the

the letters patent hereinafter mentioned, have been called or known by different names of incorporation, *i. e.* sometimes by the name of the honest men of P. &c. &c. and afterwards, until the granting the letters patent hereinafter mentioned, by the name of the mayor and burgeses of the borough of P. *i. e.* at, &c.: And the said W. M. further says, that within the same borough from time immemorial there have been and now of right ought to be an indefinite number of burgeses of the said borough: And the said William further says, that by letters patent under the great seal of England, bearing date at W. the seventeenth day of November, in the third year of Charles the First, reciting, among other things, that the borough of P. in the county of S. is an ancient borough, and that the burgeses and inhabitants of the said borough, sometimes by the name of, &c. &c. had used and enjoyed divers liberties, franchises, immunities, and pre-eminences, as well by the charter of Elizabeth, &c. as by the charters of divers of the progenitors and predecessors of the said Charles the First to them theretofore made, granted, or confirmed, as also by divers prescriptions, usages, and customs used in the said borough from time, &c. the said late king Charles did for himself, his heirs, and successors, will, ordain, constitute, declare, and grant that the said borough of P. should from thenceforth for ever be and remain a free borough of itself, and that the mayor, burgeses, and inhabitants of the said borough, by whatsoever other name or names they had theretofore been incorporated and their successors, should for ever thereafter be one body corporate and politic in deed, fact, and name, by the name of, &c.; and the said king Charles did thereby make, create, and appoint, and confirm them so accordingly, declaring that by the same name they should have perpetual succession, and that from thenceforth for ever thereafter there should be within the said borough one of the more honest and discreet aldermen of the said borough, in form in the said letters patent after specified, to be elected, who should be and who should be called mayor of the said borough; and that there should be likewise within the said borough twelve other honest and discreet burgeses of the said borough to be elected in form in the said letters patent after mentioned, who should be and should be called aldermen of the said borough, who for the time being should be and should be called the council of the said borough, and should be from time to time aiding to the mayor of the said borough for the time being in all matters, causes, and things touching and concerning the said borough; and the said late king Charles by his said letters patent assigned, nominated, constituted, and made H. H. then mayor of the said borough, to be the first and modern mayor of the said borough, and to continue in that office from the date of the said letters patent, until the feast of Saint Michael then next following, and from thence until one of the aldermen of the said borough should be preferred and sworn into that office, according to the ordinances and constitutions in the said letters patent last mentioned,

after

after expressed and declared, &c. ; and the said late king Charles by the said letters patent did for himself, his heirs, and successors, assign, nominate, constitute, and make A. B. to be the first and modern alderman, to continue in their said office during their natural lives, unless they or any of them in the mean time should be removed therefrom for *ill government* or *ill behaviour* ; and the said late king Charles by his said letters patent did for himself, his heirs, and successors, grant to the said mayor and aldermen of the said borough and their successors, that it should and might be lawful for the said mayor and aldermen of the said borough for the time being, or the major part of them from time to time, and at all times thereafter and for ever when and as often as it should appear to them to be fit and necessary, to make, elect, and prefer so many, and such persons to be burgesses of the said borough as they should please, and the said burgesses so chosen to administer an oath, on the Holy Evangelists, for their fidelity to the said borough, and for their faithfully executing all things which to the said place of burgesses of the said borough belonged to be done, as in the said borough, therefore had been used ; and this without any commission or further warrant from the said late king Charles, &c. as by the said letters patent now remaining of record in the high court of chancery, &c. appears ; which said letters patent afterwards, to wit, on, &c. the then mayor and burgesses of the said borough, accepted, &c. : And the said W. C. further says, that long after the granting the letters patent last mentioned, to wit, on, &c. T. M. then being mayor of, &c. and the said, &c. being then aldermen of the said borough, and the said, &c. being then the major part of the then mayor and aldermen of the said borough in due manner met and assembled together, according, &c. at, &c. for the election of burgesses of the same borough, and for other purposes of the same borough, in pursuance of due notice in that behalf before that time given, to wit, &c. : And the said W. C. further says, that the said last-mentioned mayor, &c. then and there met and assembled together as aforesaid, and so being the major part of the mayor and aldermen of the said borough, did then and there name, elect, choose, and prefer him the said W. C. to be a burgess of the said borough, he the said W. C. then and there being such person as the said major part of the mayor and aldermen of the said borough, then and there assembled as aforesaid, were pleased and thought good to name, elect, and choose to be such burgess, &c. : And the said W. C. further says, that after he was so named, elected, chosen, and preferred to be such burgess of the same borough, and before he took upon himself to exercise, or did exercise the place, office, and franchise of such burgess, to wit, on, &c. J. C. then being mayor of the said borough, and A. B. &c. then being alderman of the said borough, in due manner met, &c. assembled together, according to the usage and custom of the said borough, at, &c. for the swearing the said W. C. a burgess of the said borough, they the said J. C. &c. then and there being the major part, &c.

E. H. &c. being the only other alderman of the said borough, to
at, &c. : And the said W. C. further saith, that afterwards, to
on, &c. at such last-mentioned assembly there, he the said
C. was then and there duly and according to the usage of the
borough sworn into the said place, office, and franchise of a
burgess of the said borough, before, &c. and then and there took
corporal oath before, &c. upon the Holy Evangelists of God,
his fidelity of the said borough, &c.; and by virtue of the
franchise he the said W. C. afterwards, to wit, on, &c. took
in himself the place, office, and franchise of a burgess of the
borough, i. e. at, &c. and by reason of the premises he the
W. C. on, &c. and from thence continually afterwards, to
time of exhibiting the said information, was and still is a bur-
gess of the said borough of P. and by that warrant he the said
C. for and during all the time in the said information spe-
d at, &c. hath used and exercised, and still doth there use and
exercise the place, office, and franchise of one of the burgesses
of the said borough, and for and during all that time hath there-
unto and still doth there claim to be one of the burgesses of
the said borough, and to have, use, and enjoy all the liberties,
privileges, and franchises to the said place, &c. belonging and ap-
pertaining, as it was and is lawful for him to do without this; that
he the said W. C. the said place, office, &c. or any of them for
during all or any part of the time in the said information
mentioned, upon our said present sovereign, &c. hath usurped and
doth usurp in manner and form as in the said information is
alleged against him; all and singular which said matters and
things the said W. C. is ready to verify and prove as the court
shall award; wherefore he prayeth judgment, and that the said place,
office, &c. by him claimed in manner aforesaid, may be allowed
and adjudged to him, and that he may be dismissed and discharged
of the court hereof and from the premises above charged upon
him, &c.

And the said sir J. B. knight, coroner, &c. having heard the Replication.
said plea of the said W. C. in manner and form aforesaid above
pleaded in bar to the said information, for our said, &c. saith, that
our said, &c. ought not be barred from having his said infor-
mation against the said W.; for replication nevertheless in this
behalf the said coroner and attorney saith, that the said king
Charles the First, by his said letters patent in the said plea men-
tioned, did further grant to the said mayor, aldermen, and bur-
gesses, that they by the name of the mayor, aldermen, and bur-
gesses of the said borough of P. in the county of S. should and
might be at all future times persons fit and capable in law to have,
acquire, and take possession of lands and tenements, &c. of what-
soever nature and species they were to them and their successors
in fee, and perpetually, or for term of life, lives, or years, or in
any other manner, and also all goods and chattels, and also all
other things of whatsoever kind, nature, or species they were,
also

also to give, grant, demise, and assign lands, tenements, &c. to do and perform all other deeds and things by the name of the said; and that by the same name the mayor, aldermen, and burgesses of the borough of P. &c. ought and might be able to implead and be impleaded, to answer and be answered, to defend and be defended, in whatsoever courts or places, and before whatsoever judge and justices, and other persons and officers of the said late king, his heirs, and successors, in all suits, plaints, &c. real and personal, or mixed whatsoever, as well spiritual as temporal, of whatsoever kind, nature, or species they might be in the same manner and form as other his liege subjects of the kingdom of England, persons able and capable in law might be able to implead and be impleaded, &c. and have, acquire, take, possess, give, grant, and demise; and the said king did by his letters patent for himself, his heirs, and successors will and grant to the said mayor, aldermen, and burgesses of the said borough and their successors, that the said mayor and aldermen of the said borough and their successors for the time being or the major part of them (of which the said late king willed that the mayor for the time being should be one), might and should have full power and authority of forming, constituting, making, from time to time all such reasonable laws, statutes, ordinances, and constitutions as to them in their sound discretion should seem to be good, wholesome, useful, honest, and necessary for the good order and government of the burgesses and inhabitants of the borough aforesaid for the time, and for the declaring in what manner and order the aforesaid mayor, aldermen, burgesses, artificers, inhabitants and residents of the borough aforesaid might conduct, have, and use themselves in their offices, within the said borough, and the limits and liberties thereof, and otherwise for the further good and public utility and good order of the said borough, and the victualling of the said borough; and also for the better preservation, government, disposition, letting and demising lands, tenements, &c. to the aforesaid mayor, or their predecessors before that time, or by the said letters patent before that time given, granted, and assigned, or confirmed to them and their successors; in future to be given, granted, assigned, and other things and causes whatsoever, touching, or any wise concerning the aforesaid borough, or the estate, right, or interest in the said borough, and that they and their successors might by the mayor for the time being, and the aldermen of the aforesaid borough, being the council of the same borough, or the major part of them aforesaid (as often as they should have framed, made, ordained, and established such laws, statutes, and ordinances in form aforesaid) impose and assess such reasonable pains, penalties, and punishments by corporal imprisonments, or by fines and amerciaments, or by either of them upon and towards all persons offending against such laws, &c. or either of any of them as to the said mayor and council of the said borough for the time being, or the major part of them as is aforesaid should

in reasonable and fit; and also that they might and might be to levy and have the said fines and amerciements to the use of the said mayor, aldermen, and burgesſes, and their ſucceſſors, without any hindrance from him the late king, his heirs, or ſucceſſors, or of any officers or miniſter of him the ſaid late king, his heirs, or ſucceſſors whatſoever, ſo that ſuch laws, ſtatutes, &c. were not repugnant or contrary to the laws, &c.; and the ſaid late king, did by the ſaid letters patent for himſelf, his heirs, and ſucceſſors further will and grant to the aforeſaid mayor, aldermen, and burgesſes of the borough aforeſaid for the time being, or the major part of them, from time to time, and at all future times thereafter that they and their ſucceſſors might and might have authority annually in the year every Monday ſe'nnight, before, &c. of aſſembling themſelves, or the major part of them in the Guildhall of the borough aforeſaid, or in any other convenient place within the ſaid borough to be limited and aſſigned according to their diſcretion, and of continuing there until they or the major part of them there aſſembled ſhould have choſen and named one of the aldermen of the borough aforeſaid into the mayoralty, and for the mayor of the borough aforeſaid, for one whole year after the Feaſt of Saint Michael, &c.; and that ſuch perſon after that he was choſen and nominated as aforeſaid into the mayoralty of the ſaid borough, before he was admitted to take that office, ſhould take his corporal oath upon, &c. before, &c. for the time being, in the preſence of as many of the council of the aforeſaid borough as ſhould chooſe to be there preſent, rightly, well, and faithfully to execute that office in and for all things touching that office; and that after he ſhould have taken that oath he might and might be able to execute the office of the mayor of the borough aforeſaid, until, &c. and further until one other alderman of the ſaid borough ſhould in due manner and form be choſen, preferred, and ſworn into the mayoralty of the borough aforeſaid, according to the ordinances and conſtitutions in the ſaid letters patent above declared; and the ſaid late king did by the ſaid letters patent for himſelf, his heirs, and ſucceſſors, further will and grant to the aforeſaid mayor, aldermen, and burgesſes of the borough aforeſaid and their ſucceſſors, that if it ſhould happen that the aforeſaid H. H. modern mayor of the borough aforeſaid, before the Feaſt, &c. or that any other mayor of the borough aforeſaid for the time being, thereafter, at any future time within one year after that he ſhould have been choſen and ſworn as aforeſaid to the office, &c. ſhould die or be removed from that office which the ſaid mayor, as well then preſent as future, the ſaid late king willed ſhould be amoveable for any cauſe or default, or other reaſonable cauſe at the pleaſure of the aldermen of the ſaid borough for the time being or the major part of them, that then it ſhould and might be lawful to and for the aldermen of the ſaid borough for the time being, or the major part of them to chooſe and prefer one other of the aldermen of the borough aforeſaid for the time being into the mayoralty of the borough aforeſaid; and that the perſon ſo choſen and preferred

ferred to the office of the mayoralty of the borough aforesaid might have and exercise that office until another should be in manner chosen, preferred, and sworn to that office, according to the ordinances and provisions in the said letters patent declaring the person so chosen into the mayoralty of the borough aforesaid first taking his corporal oath before two or more of the aldermen of the borough aforesaid for the time being, rightfully, well, and faithfully to execute that office, and so as often as the case should so happen; and if and whensoever it should happen that either or any of the aldermen of the borough aforesaid for the time being should die or be removed from the said office, which said aldermen, &c. and every of them, the late king willed should be removeable for any crime or default, or reasonable cause, at the discretion of the mayor and the rest of the aldermen of the borough aforesaid for the time being, or the major part of them, that then and so often it should and might be lawful for the mayor and the rest of the aldermen of the borough aforesaid for the time being, or the major part of them, to choose and prefer one or more of the burgessees of the borough aforesaid for the time being to be alderman or aldermen of the borough aforesaid in the place or places of the person or persons who should so happen to die or be removed to fill up the aforesaid number of twelve aldermen of the borough aforesaid, and that the person or persons so chosen and preferred to the office or offices of alderman or aldermen of the borough aforesaid, should have and exercise the said office or offices during their natural lives, unless he or they should in the mean time be removed as aforesaid, the person or persons so chosen to take his and their corporal oath, upon the holy, &c. before, &c. well and faithfully, &c.: And the said late king did by the said letters patent for himself, his heirs, and successors, further will and grant to the aforesaid mayor, aldermen, and burgessees of the borough aforesaid and their successors, that they and their successors might have and hold, and might, and be able to have and hold within the borough aforesaid a certain court of record before the mayor, recorder, and aldermen of the borough aforesaid for the time being, or any four or more of them, of which the said late king willed the mayor or recorder should be one, and in the Guildhall of the said borough, or in any other convenient place within the borough aforesaid, every Tuesday in every week, except in the week of Easter, Whitsuntide, and Christmas, and so from week to week to be kept for ever; and that the same mayor, recorder, and aldermen of the borough aforesaid for the time being, or such four or more of them as aforesaid, might have full power and authority from time to time of hearing and determining in the said court, by plaint in the said court, to be levied all and all manner of debts and amounts, covenants, contracts, and trespasses, with force and arms or otherwise, in contempt of our said, &c. done or to be done, conversions, detentions, contempts, deceits, or other things and actions, personal or mixt whatsoever, within the aforesaid borough of P. and the limits,

limits, bounds, and liberties of the same, in any manner arisen or to arise, happened or to happen, in such and in as full manner and form, and for such sums, for which therefore the mayor and burgeses of the borough aforesaid had then held or might have held pleas; and that the same mayor, recorder, and aldermen of the borough aforesaid for the time being, or any four or more of them, of which the said late king willed the said mayor or recorder should be one, as is aforesaid upon all such complaints, pleas, and actions might and should have power, authority, and faculty to draw into pleas the person of the defendant against whom such pleas or actions should happen to be levied, and moved by summons, attachment, and distress, according to the custom used in the same borough, to be directed to the serjeants at mace of the said borough for the time being, or one of them; and for want of chattels and lands of such defendants against whom such pleas, or actions should happen to be levelled or moved within the borough aforesaid, the limits or liberties of the same where or by which they might be summoned, attached, or distressed by attachment, or caption of their persons, and separately to hear and determine all and singular the aforesaid actions, pleas, and pleas, and to proceed and determine by such proceedings; judgments, and executions of the judgments by which like pleas were proceeded on and determined in the said borough, or in any city or borough within the kingdom of England, and that the executions of the proceedings and judgments aforesaid might be done and levied by the aforesaid serjeants at mace: And the said late king did by the said letters patent for himself, his heirs, and successors, will and grant to the aforesaid mayor, aldermen, and burgeses of the borough aforesaid and their successors, that they and their successors for ever thereafter might have and hold, and might be able to have and hold within the said borough of P. a court leet or view of frank pledge of all and singular the inhabitants and residents within the said borough, and within the limits, precincts, and liberties of the same, and all things which to a court leet or view of frank pledge belong, or might or ought to belong, to be holden twice in the year, that is to say, once on the Monday next, after the Feast, &c. and again on, &c. or at other convenient days, within one month of, &c. and the Feast of, &c. before the mayor or recorder and aldermen of the borough aforesaid for the time being, in every year to be held in the same year, and in as full manner and form as was rightfully and lawfully used or accustomed, or ought to be used or accustomed in the same borough, or other borough incorporate, within the kingdom of England: And the said late king by the said letters patent did for himself, his heirs, and successors further will and grant to the aforesaid mayor, aldermen, and burgeses of the borough aforesaid and their successors, that the mayor and recorder of the borough aforesaid for the time being, for one year after that he should have quitted the office of the mayoralty of the said borough, and three other of the aldermen of the borough aforesaid

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ferred to the office of the mayoralty of the borough aforesaid might have and exercise that office until another should be in due manner chosen, preferred, and sworn to that office, according to the ordinances and provisions in the said letters patent declared the person so chosen into the mayoralty of the borough aforesaid first taking his corporal oath before two or more of the aldermen of the borough aforesaid for the time being, rightfully, well, and faithfully to execute that office, and so as often as the case should so happen; and if and whensoever it should happen that either of or any of the aldermen of the borough aforesaid for the time being should die or be amoved from the said office, which said aldermen, &c. and every of them, the late king willed should be amoveable for any crime or default, or reasonable cause, at the discretion of the mayor and the rest of the aldermen of the borough aforesaid for the time being, or the major part of them, that then and so often it should and might be lawful for the mayor and the rest of the aldermen of the borough aforesaid for the time being, or the major part of them, to choose and prefer one or more of the burgeses of the borough aforesaid for the time being to be alderman or aldermen of the borough aforesaid in the place or places of the person or persons who should so happen to die or be amoved to fill up the aforesaid number of twelve aldermen of the borough aforesaid, and that the person or persons so chosen and preferred to the office or offices of alderman or aldermen of the borough aforesaid, should have and exercise the said office or offices during their natural lives, unless he or they should in the mean time be amoved as aforesaid, the person or persons so chosen to take his and their corporal oath, upon the holy, &c. before, &c. well and faithfully, &c.: And the said late king did by the said letters patent for himself, his heirs, and successors, further will and grant to the aforesaid mayor, aldermen, and burgeses of the borough aforesaid and their successors, that they and their successors might have and hold, and might, and be able to have and hold within the borough aforesaid a certain court of record before the mayor, recorder, and aldermen of the borough aforesaid for the time being, or any four or more of them, of which the said late king willed the mayor or recorder should be one, and in the Guildhall of the said borough, or in any other convenient place within the borough aforesaid, every Tuesday in every week, except in the week of Easter, Whitsuntide, and Christmas, and so from week to week to be kept for ever; and that the same mayor, recorder, and aldermen of the borough aforesaid for the time being, or such four or more of them as aforesaid, might have full power and authority from time to time of hearing and determining in the said court, by plaint in the said court, to be levied all and all manner of debts and amounts, covenants, contracts, and trespasses, with force and arms or otherwise, in contempt of our said, &c. done or to be done, conversions, detentions, contempts, deceits, or other things and actions, personal or mixt whatsoever, within the aforesaid borough of P. and the limits,

limits, bounds, and liberties of the same, in any manner arisen or to arise, happened or to happen, in such and in as full manner and form, and for such sums, for which therefore the mayor and burgesses of the borough aforesaid had then held or might have held pleas; and that the same mayor, recorder, and aldermen of the borough aforesaid for the time being, or any four or more of them, of which the said late king willed the said mayor or recorder should be one, as is aforesaid upon all such complaints, pleas, pleas, and actions might and should have power, authority, and faculty to draw into pleas the person of the defendant against whom such pleas or actions should happen to be levied, and moved by summons, attachment, and distress, according to the custom used in the same borough, to be directed to the serjeants at mace of the said borough for the time being, or one of them; and for want of chattels and lands of such defendants against whom such pleas, pleas, or actions should happen to be levelled or moved within the borough aforesaid, the limits or liberties of the same where or by which they might be summoned, attached, or distressed by attachment, or caption of their persons, and separately to hear and determine all and singular the aforesaid actions, pleas, and pleas, and to proceed and determine by such proceedings, judgments, and executions of the judgments by which like pleas were proceeded on and determined in the said borough, or in any city or borough within the kingdom of England, and that the executions of the proceedings and judgments aforesaid might be done and levied by the aforesaid serjeants at mace: And the said late king did by the said letters patent for himself, his heirs, and successors, will and grant to the aforesaid mayor, aldermen, and burgesses of the borough aforesaid and their successors, that they and their successors for ever thereafter might have and hold, and might be able to have and hold within the said borough of P. a court leet or view of frank pledge of all and singular the inhabitants and residents within the said borough, and within the limits, precincts, and liberties of the same, and all things which to a court leet or view of frank pledge belong, or might or ought to belong, to be holden twice in the year, that is to say, once on the Monday next, after the Feast, &c. and again on, &c. or at other convenient days, within one month of, &c. and the Feast of, &c. before the mayor or recorder and aldermen of the borough aforesaid for the time being, in every year to be held in the same year, and in as full manner and form as was rightfully and lawfully used or accustomed, or ought to be used or accustomed in the same borough, or other borough incorporate, within the kingdom of England: And the said late king by the said letters patent did for himself, his heirs, and successors further will and grant to the aforesaid mayor, aldermen, and burgesses of the borough aforesaid and their successors, that the mayor and recorder of the borough aforesaid for the time being, for one year after that he should have quitted the office of the mayoralty of the said borough, and three other of the aldermen of the borough aforesaid

aforesaid for the time being, in manner thereafter mentioned to be chosen at all future times thereafter, might and should be justices of him the said late king, his heirs, and successors, to keep and preserve, and cause to be kept and preserved the peace of the said king, his heirs, and successors in the same borough, and the liberties and precincts thereof, and also to preserve, correct, and keep, and cause to be preserved, corrected, and kept the statutes concerning artificers and labourers, weights and measures within the borough aforesaid, and the limits and precincts thereof; and that the said mayor and recorder for the time being, during one year after that he should have quitted the mayoralty of the said borough, and the aforesaid three other aldermen of the borough aforesaid for the time being, to be chosen in form as in the letters patent thereafter mentioned, of whom the late king willed that the said mayor of the said borough for the time being should be one, should and might have full power and authority thereafter to enquire, hear, and determine within the said borough, and the limits thereof, and all and all manner of felonies, imprisonments, riots, routs, &c. and all other things whatsoever within the said borough, and the liberties and precincts thereof, from time to time arising or happening, which to the office of justice of the peace in any manner belonging, or which thereafter should happen or belong, or which in any manner ought to be, or ought to be enquired into, heard, and determined before justices of the peace, together with the corrections and punishments thereof, and to do and perform all other things within the said borough, and the liberties thereof, as fully, freely, and entirely, and in as ample manner and form as the justices of the peace of the said late king, his heirs, and successors, in the county of S. or elsewhere within the said late king's kingdom of England, by virtue of any commission, act of parliament, &c. or by any other lawful means whatsoever before that time had or exercised, or thereafter might be able to have and exercise, and in as ample manner and form as if the same were expressed, contained, and recited in the said late king's letters patent specially, and by special words so however that they, or every, or either of them should not in any manner proceed to the determination of any murder, treason, or felony, or any other matter touching the loss of life and limbs within the said borough or liberties thereof, without the especial mandate of the said late king, his heirs, or successors: And the said late king did by the said letters patent for himself, his heirs, and successors strictly order, that no justices of the peace of him the said late king, his heirs, and successors in the county aforesaid, or either of them thereafter, within the aforesaid borough, or the liberties of the same, should any wise intermeddle, nor have, nor exercise any jurisdiction concerning any causes, things, or matters whatsoever in any ways belonging or appertaining, or which should happen for the future to belong and appertain to a justice of the peace within the borough aforesaid, or the liberties of the same, from whatsoever cause, or whenever

ever

ever the same should arise or happen by the said letters patent, inrolled of record in, &c. at, &c. more fully appears: And the said coroner and attorney, &c. for our, &c. further says, that the said W. C. at the time of the said supposed election of him the said W. C. to be a burges of the said borough in his said plea above mentioned, was of the age of five years and ten months, and no more, *i. e.* at, &c. aforesaid; and this, &c.; wherefore, &c.

And the said William protesting that the said plea of the said coroner and attorney, in manner and form aforesaid above pleaded by way of reply, and the matters therein contained are not sufficient to convict him the said William of the premises above charged upon him by the said information, nor to forejudge or exclude him from the place, office, &c. and that he need not, nor is he obliged by the law of the land to answer thereto; yet for a rejoinder he the said William saith, that true it is that he the said William, at the time of the said election of him the said William to be a burges of the said borough, was of the age of five years and ten months and no more, as by the said replication in that behalf is above alledged; but the said William says, at the said time when, &c. the said William was sworn into the said office, &c. of one of the burgeses of the said borough, he the said William was of the full age of twenty-one years, to wit, at, &c.; and that by reason of his the said William's being nominated, elected, chosen, preferred, and sworn into the said place, office, &c. he the said William became and was and still is a burges of the said borough, in manner and form as is in and by his said plea in that behalf above alledged, to wit, at, &c.; and that he the said W. M. did not at any time exercise, use, or take upon himself to exercise or use the said place, office, &c. until he was sworn into the said place, &c. of one of the burgeses of the said borough as aforesaid, to wit, at, &c.; and this, &c.; wherefore, &c. (Demurrer and joinder.)

Rejoinder. Was of full age when sworn.

BE it remembered that sir J. B. knight, coroner, &c. who prosecutes, &c. in his own proper person cometh here into the court of our said lord the king, before the king himself, at W. on Tuesday, &c. and for our said lord the king at the relation of J. W. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the borough of, &c. in the county of S. is an ancient borough, and that within the same borough from time immemorial there has been and ought to have been a certain corporate body, which during all that time has consisted and ought to have consisted of nine persons, who have been, and have been called, and ought to have been called the commonalty stewards, &c. *i. e.* two of the said body, who have been and ought to have been during all the time aforesaid annually chosen by the members of the said body out of themselves into

Information given warrants. Usurps the office of commonalty steward of the borough of M.

INFORMATION.—PLEA.

the office of stewards, have been and have been called the commonalty stewards, and the other members of the said body have been and have been called assistants, and that the place and franchise of a commonalty steward for and during the whole time aforesaid hath been and still is a place, office, and franchise of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, *i. e.* at, &c. ; and that S. &c. of, &c. upon, &c. at, &c. did use and exercise, and from thence continually to the time of exhibiting this information hath there used and exercised, and still doth there use and exercise the office, place, and franchise of one of the commonalty stewards of the said borough of, &c. without any legal authority &c. to be one of the commonalty stewards of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the said place and office of one of the commonalty stewards belonging and appertaining ; which said place, office, franchise, &c. he the said S. for and during all the time last above mentioned, upon our, &c. without any legal, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our said lord the king, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity ; whereupon the said coroner, &c. attorney, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said S. in this behalf to make him answer to our said lord the king, and shew by what authority he claimeth to have, use, and enjoy the place, office, franchise, liberties, and privileges aforesaid.

Plea, custom on vacancy to elect commonalty steward, and that defendant was elected.

And now, that is to say, on, &c. before our said lord the king, at Westminster, comes the said S. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are insufficient in law to compel the said S. to answer thereto ; yet for plea in this behalf the said S. saith, that he doth not apprehend that our said lord the king will or ought further to impeach or implead him by reason of the premises in the said information contained, because he saith, that as to the said supposed usurpation in the said information mentioned, on the, &c. and from thence until, &c. he the said S. is not nor was guilty thereof in manner and form as in the said information is alledged ; and of this he the said S. puts himself upon the country, &c. and as to the said supposed usurpation in the said information mentioned, upon, &c. and from thence until the exhibiting the information aforesaid, he the said S. says, that true it is that the said borough of M. being within, &c. is an ancient borough as by the said information is above alledged ; but the said S. further saith, that within the said borough of, &c. there is, and from time whereof, &c. there hath been a certain body corporate and politic, consist-

ing of nine persons, who during all the time aforesaid have been, and have been called, and of right ought to have been called, and still of right ought to be called the commonalty stewards of the said borough, *i. e.* at, &c.: And the said S. further says, that whenever it hath so happened that by the death or resignation of any of those commonalty stewards any vacancy or vacancies hath or have happened in the office or offices of the said commonalty steward or commonalty stewards, the said commonalty stewards or the major part of them, from time whereof, &c. have elected, and have been used and accustomed to elect, and of right ought to have elected, and still of right ought to elect some other person or persons, being an inhabitant or inhabitants of the said borough, to supply and fill up the said place or places of a commonalty steward or commonalty stewards so being vacant by death or resignation, *i. e.* at, &c.: And the said S. further says, that on, &c. the office of one of the commonalty stewards was vacant by the resignation of, &c. *i. e.* at, &c.: And the said S. further says, that on, &c. the major part of the then remaining commonalty stewards of the said borough did elect and appoint him the said S. to be one of the commonalty stewards in the room of, &c. whose said office was then and there void by resignation, *i. e.* at the borough aforesaid, in the said county; and by virtue of the premises the said S. on, &c. and from thence continually afterwards, to the time of exhibiting the said information at the borough aforesaid, did there use and exercise, and still doth there use and exercise the said place, office, and franchise of one of the commonalty stewards of the said borough, &c. and by virtue thereof on, &c. and from thence until the time of exhibiting the said information hath there claimed, and still there doth claim to be one of the commonalty stewards of the said borough, and to have, use, and enjoy all the privileges, liberties, &c. to the said place and office of one of the commonalty stewards belonging and appertaining as it was and is lawful for him to do; without this that he the said S. the said place, office, &c. in the said information above mentioned, or any of them on the said, &c. or at time since hath usurped and doth usurp upon, &c. in manner and form as in and by the said information is above alledged against him; and this, &c.; and wherefore, &c.

F. BULLER.

Easter Term, 13. Geo. 3.

AND now, *i. e.* on, &c. before, &c. at W. cometh the said A plea of disclaimer. &c. by A. B. his attorney, and having heard the said information read, he saith that he doth disavow and disclaim the office, liberties, &c. in the said information above specified, and cannot deny but that he hath usurped upon, &c. the said office, &c. in the said information above mentioned; and confesseth and acknowledgeth the said usurpation in manner and form as in the said information is above alledged; and thereupon

he putteth himself upon the mercy of our said present sovereign lord the king.

F. BULLER.

Record of proceedings in *quo warranto*. Defendant usurped the office of burgeses and freeman of the borough of H. in the county of C.

PLEAS before our said lord the king at Westminster, of Trinity Term, 10. Geo. III. &c. ROLL.

[Amongst the pleas of the king.]

CORNWALL. Be it remembered that J. B. esquire, coroner, &c. in this behalf prosecutes, in his own proper person comes here into the court of our said lord the king, before, &c. at Westminster, on, &c. and for our, &c. at the relation of W. W. of, &c. gentleman, according to the form, &c. brought here into the court of our, &c. before, &c. a certain information in the nature of a *quo warranto* against W. S. late, &c. which said information follows in these words, *i. e.* Cornwall: Be it remembered that J. B. esquire, coroner, &c. in the court, &c. in this behalf prosecutes, in his own proper person cometh here into the court of, &c. before, &c. on, &c. and for, &c. at the relation of W. W. of, &c. according, &c. giveth the court here to understand and be informed, that the borough of H. in the county of C. is an ancient borough, and that the burgeses of the said borough now are, and for the space of ten years now last and upwards have been, and were one body corporate and politic in deed, fact, and name, by the name of, &c. *i. e.* at, &c. and that within the said borough there are or ought to be, and for and during all the time aforesaid there have been or ought to have been a mayor, four aldermen, and an indefinite number of burgeses and freemen of and for the said borough, *i. e.* at, &c.; and that the office of a burgeses and freemen of and for the said borough for and during all the time aforesaid hath been and still is a reputable office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, to wit, at, &c. and that W. S. late, &c. upon, &c. at, &c. and from thence continually afterwards to the time of exhibiting this information hath used and exercised, and still doth there use and exercise without any legal warrant the office of one of the burgeses and freemen of the said borough, and for and during all the time last above mentioned hath there claimed, and still doth there claim without any legal warrant, royal grant, &c. to be one, &c. and to have, use, and enjoy all the liberties, &c. to the said office of, &c. belonging and appertaining, which said office, liberties, &c. he the said W. S. for and during all the time last above-mentioned, upon our, &c. hath usurped, and did usurp, and upon our, &c. still doth usurp, *i. e.* at, &c. in contempt of our said late, &c. as also of our present, &c. and their laws, to the great damage and prejudice of the royal prerogative,

rogative, and also against the crown and dignity as well as of our said late, &c. as our said present, &c. ; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said W. S. in this behalf to make him answer to our said, &c. and shew by what authority he claimeth to have, use, and enjoy the office, &c. aforesaid ; wherefore the sheriff of the said county of C. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our said, &c. concerning the premises aforesaid : And Plea. now, at this day, i. e. on, &c. before, &c. at Westminster, comes the said W. S. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly troubled and vexed, and that by no means justly, because protesting that the said information and the matters therein contained are insufficient in law, and that he need not, nor is he obliged by the law of the land to answer thereto ; yet for plea in this behalf he the said W. S. says, that he does not apprehend that our said lord the king will or ought further to impeach or implead him the said W. S. by reason of the premises in the said information specified, because he says, that true it is that the said borough of, &c. is an ancient borough, and that the burgesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name, &c. and that within the said borough there are or ought to be, and during all the time aforesaid there have been or ought to have been a mayor, four aldermen, and an indefinite number of burgesses and freemen of and for the said borough, and that the office of a burgess and freeman of and for the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, as by the said information is above suggested ; but the said W. S. further says, that the said borough is, and from time immemorial hath been an ancient town and borough ; and that the lady E. late queen, &c. by her letters patent under her, &c. bearing date at Westminster, the twenty-sixth day of January, in the twenty-seventh year of her reign, reciting among other things that the burgesses and inhabitants of the said borough of H. from time whereof, &c. had peaceably had, held, and enjoyed divers customs, jurisdictions, &c. as well by prescription as by reason, virtue, and pretext of letters patent, charters, &c. to the said burgesses of the said borough, and their heirs and successors before that time made, and also that the burgesses and inhabitants of the same borough had then humbly besought her that she would graciously shew and extend her munificence and favour to them the said burgesses, and that she for the better rule, government, sustaining, and main-

taining of the same borough would vouchsafe to found, erect, create, and establish the said burghesses and inhabitants into another body corporate, she the late queen therefore considering, and of her knowledge taking it for granted that the said borough or vill was an ancient borough, and one of her most ancient boroughs within her duchy of C. did by the said letters patent of her certain knowledge and mere motion, for herself, her heirs, and successors, will, ordain, constitute, grant, and declare that the borough or vill of H. aforesaid should be and remain for ever thereafter a free borough of itself, and that the burghesses of the said borough for ever thereafter should and might be one body corporate and politic by themselves in deed, fact, and name, by the name of, &c. and them by the name of, &c. really and fully for herself, her heirs, and successors by the said letters patent did erect, make, found, establish, ordain, and create one body corporate and politic, and that by the same name they should have perpetual succession, and that they by the name of, &c. should and might be at all future times persons fit and capable in law to have, acquire, receive, possess, enjoy, and hold lands, tenements, &c. &c. whatsoever, of whatsoever kind, nature, or species they should be to them and their successors in fee and perpetuity; and also to give, grant, limit, and assign those lands, tenements, &c. and lawfully to do and execute all and singular other deeds and things by the same name; And the said late queen of her further grace, and of her certain knowledge and mere motion, did by the said letters patent assign, nominate, make, constitute, and ordain her beloved subject Peter C. an honest man, and an inhabitant of the said borough, to be the first and modern mayor of the said borough, by his oath faithfully to execute the office of mayor of the same borough, until, &c. from the same day until one other person should be elected, and in due manner sworn faithfully to execute that office; and him the said Peter did make, ordain, create, constitute, establish, and declare to be the mayor of the said borough during the time aforesaid: And that the said late queen did by her said letters patent for herself, her heirs, and successors, grant to the said mayor and commonalty, and their successors, that for the future for ever thereafter from time to time there should and might be four of the more discreet, honest, and quiet men of the said borough, who should be aiding and assisting to the said mayor of the same borough for the time being, for causes and matters touching the same borough, and who should be, and should be called aldermen of the same borough, and who, together with the mayor of the same borough for the time being, should be the common council of the said borough, for the making and enacting from time to time statutes, acts, and ordinances, touching and concerning the public utility and advantage of the same borough, and the inhabitants thereof for the time being, by them, or the major part of them, with the mayor of the same borough for the time being, for the better rule and government of the men, causes, things, and businesses of the said borough for time being for ever thereafter:

And

And the said late queen did also by the said letters patent assign, nominate, make, constitute, and order her beloved subjects J. P. &c. inhabitants of the said borough of H. to be the first modern four aldermen of the same borough, and to be upon their oath corporally, to be taken before the said P. C. the said modern mayor, the common council of the said borough, with the said mayor and aldermen of that borough for the time being, did make, create, constitute, ordain, and declare the common council of the said borough: And the said late queen did by the said letters patent grant to the said mayor and commonalty of the said borough of H. and their successors, that the said mayor and commonalty for the time being, together with the aldermen of the said borough for the time being, or major part of the said aldermen for the future, might be able to elect and admit such and so many of the more discreet, honest, and quiet men, and inhabitants of the said borough to be the burgesses and freemen of the said borough as to them should from time to time seem fit and convenient, as by the said letters patent now remaining of record in, &c. at Westminster, &c. amongst other things more fully appears, which said letters patent afterwards, to wit, on, &c. the then burgesses of the said borough of H. accepted, to wit, at, &c. and by virtue of the premises the burgesses of the said borough have from thenceforth hitherto been and still are one body corporate and politic in deed, fact, and name, by the name, &c.: And the said W. S. further says, that after the accepting the said letters patent, and long before the election of him the said W. S. hereinafter-mentioned, to wit, on, &c. at, &c. the then mayor and aldermen of the said borough, and then being the common council of the said borough, with the assent of the commonalty of the said borough, did make a certain reasonable statute, act, and ordinance, commonly called a bye-law (not now extant) in writing, for the avoiding of popular confusion in the election of burgesses and freemen of the same borough, whereby it was ordained that the mayor and aldermen, or the major part of the said aldermen of the same borough for the time being, by themselves, and without the concurrence or assistance of the commonalty of the said borough, might and might be able at all future times for ever thereafter to elect and admit such and so many of the more discreet, quiet, and honest men and inhabitants of the same borough to be the burgesses and freemen of the same borough as to them should from time to time seem fit and convenient, to which bye-law the mayor and commonalty of the said borough of H. have from the making thereof hitherto conformed themselves, and the same still is in force in nowise reversed, repealed, or annulled, to wit, at, &c.: And the said W. S. further says, that afterwards, to wit, on, &c. at, &c. R. J. then mayor of the said borough, together with the major part of the aldermen of the said borough, did elect and admit him the said W. S. (he the said W. S. then being one of the more discreet, honest, and quiet men, and an inhabitant of the said borough, to be a burgess

QUO WARRANTO—REPLICATION.

and freeman of the said borough ; and thereupon he the said W. S. on, &c. did take upon himself the office of one of the burgeses and freemen of the said borough, to wit, at, &c. and by reason of the premises the said W. S. on, &c. and from thence continually afterwards to the time of exhibiting the said information was and still is a burges and freeman of the said borough ; and by that warrant he the said W. S. for and during all the time in the said information in that behalf mentioned, at, &c. hath used and exercised, and still doth there use and exercise the office of one of the burgeses and freemen of the said borough, and for and during all that time hath there claimed, and still doth there claim to be one of the burgeses and freemen of the said borough, and have, use, and enjoy all the liberties, &c. to the said office of one of the burgeses and freemen of the same borough belonging and appertaining, as it was and is lawful for him to do ; without this that he the said W. S. during all or any part of the time in the said information mentioned, hath usurped or doth usurp the said office, liberties, privileges, and franchises, or any of them, upon, &c. in manner and form as in the said information is above alledged against him, all and singular which said matters and things he the said W. S. is ready to verify and prove as the court shall award ; whereupon he prays judgment, and that the office, &c. by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Replication.

AND the said J. B. esquire, coroner, &c. says, that the said plea of the said W. S. in manner and form above pleaded, and the matters therein contained are not sufficient in law to bar our said lord the king from having his information aforesaid against the said W. S. or to excuse the said W. S. from the usurpation above charged upon him, which said plea so as aforesaid pleaded he the said coroner, &c. hath no occasion nor is he bound by the law of this realm to answer, and this he the said coroner, &c. is ready to verify ; wherefore for want of sufficient plea in this behalf the said coroner, &c. prays judgment, and that the said W. S. may be convicted of the premises above charged upon him by the said information, and that he be forejudged and excluded of and from the office, &c. And the said W. S. says, that the plea of the said W. S. by him above pleaded to the said information of the said coroner and attorney, &c. and the matters therein contained are not sufficient in law to bar our said, &c. from having his aforesaid information maintained against him the said W. S. which said plea and the matters therein contained he the said W. S. is ready to verify and prove as the court shall award ; and because the said coroner, &c. hath not yet answered to the said plea, or in any manner denied the same, the said W. S. prays judgment, and that the office, &c. by him claimed as aforesaid, may be allowed and adjudged to him, and that he may be dismissed and discharged

discharged by the court here of and from the premises above charged upon him, &c. and because the said court of our, &c. *Car. adv. suit.* is not yet advised of giving their judgment of and upon the premises aforeaid; a day is therefore given as well to the said J. B. esquire, who prosecutes for our, &c. as to the said W. S. until, &c. wheresoever, &c. to hear their judgment thereupon, for that the said court of our said present sovereign lord the king now here is not yet advised thereupon, at which time, to wit, on, &c. before, &c. at W. cometh as well the said J. R. esquire, who, &c. as the said W. S. by his attorney aforeaid, whereupon all and singular the premises being seen and fully understood by the court here, and mature deliberation had thereon, it is considered *Judgment.* and adjudged by the said court here that the said plea of the said W. S. so by him pleaded as aforeaid, is not sufficient in law; and it is hereupon further adjudged that the said W. S. do not in any manner intermeddle with or concern himself in or about the said office, &c. but that he be absolutely forejudged and excluded from ever using or exercising the same or any of them for the future, and that he the said W. S. in order to satisfy our said present sovereign lord the king on account of the usurpation aforeaid, be taken, &c. and that the said W. W. the relator above mentioned, do recover against the said W. S. the sum of pounds for his costs by him laid out and expended in carrying on his suit in this behalf, according to the form of the statute in such case made and provided.

REX
against

WILLIAMS, ALDERMAN OF HELSTON.

CORNWALL, to wit.

Be it remembered that

James Burrows, esquire, coroner, &c. who for our said lord the king in this behalf prosecutes, in his proper person comes here into the court of, &c. at, &c. on, &c. and for our said lord, &c. at the relation of W. W. of, &c. according to the form of, &c. brings here into the court of, &c. a certain information in the nature of a *quo warranto* against J. W. late of, &c. which said information followeth in these words, to wit, Cornwall, to wit. Be it remembered that J. B. esquire, coroner, &c. in his proper person cometh here into the court of our, &c. at, &c. on, &c. and for our said, &c. at the relation of, &c. according to the form of, &c. giveth the court here to understand and be informed, that the borough of H. in the county of C. is an ancient borough, and that the burgesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of, &c. and that within the said borough there is or ought to be, and for and during all the time aforeaid there hath been or ought to have been a mayor and four aldermen of the said borough, to wit, at, &c. and that the office of an alderman of the said borough for and during all the time aforeaid hath been and still is a public office, and

Information quo warranto. Defendant usurped the office of alderman of the borough of Helston.

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an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, to wit, at, &c. ; and that J. W. late of, &c. upon, &c. at, &c. did use and exercise, and from thence continually afterwards to the time of exhibiting of this information hath there used and exercised, and still there doth use and exercise, without any legal, &c. the office of one of the aldermen of the said borough, and for and during all the time last above-mentioned hath there claimed and still doth there claim, without any legal warrant, &c. to be one of the aldermen of the said borough, and to have, use, and enjoy all the liberties, &c. to the said office of one of the aldermen of the said borough belonging and appertaining ; which said office, liberties, &c. he the said J. W. for and during all the time last aforesaid upon our, &c. hath usurped and still doth usurp, to wit, at, &c. in contempt of our said lord the king, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity ; whereupon the said coroner, &c. for our, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. W. in this behalf, to make him answer to our said present sovereign lord the king, and to shew by what authority he claimeth to have, use, and enjoy the office, liberties, &c. aforesaid ; wherefore the sheriff of the said county of C. is commanded that he do not forbear by reason of any liberty in his bailiwick, but that he cause him to come to answer to our said present sovereign lord the king touching and concerning the premises aforesaid.

Plea,

And now, to wit, on Monday, &c. before our said present sovereign lord the king at Westminster, comes the said J. W. by his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not nor is he obliged by the law of the land to answer thereto ; yet for plea in this behalf the said J. W. says, that he doth not apprehend that our said lord the king will or ought further to impeach him the said J. W. by reason of the premises in the said information contained, because he saith, that true it is that the said borough, &c. is an ancient borough, and that the burgesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body politic and corporate in deed, fact, and name, by the name of the mayor, &c. &c. and that within the said borough there is or ought to be, and for and during all the time aforesaid there hath been or ought to have been a mayor and four aldermen of the said borough, and the office of an alderman of the said borough for and during all the time aforesaid hath been and still is
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a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, as by the said information is above suggested; but the said J. W. further says, that the said borough of H. is and from time immemorial hath been an ancient borough, and that the lady Elizabeth, late queen of England, by her letters patent under her great seal of Great Britain, and bearing date, at Westminster, the twenty-sixth day of January, in the twenty-seventh year of her reign, reciting, that the burgesses and inhabitants of the said borough of H. from time whereof the memory of man is not to the contrary, hath peaceably had, held, and enjoyed divers customs, jurisdictions, &c. as well by prescription, as by reason, virtue, and pretext of letters patent, &c. to the said burgesses of the said borough, and their heirs and successors, before that time made, and also that the burgesses and inhabitants of the said borough of H. had then humbly besought her that she would graciously shew and extend her munificence and favour to them the said burgesses, and that she for the better rule, government, sustaining, and maintaining of the same borough, would vouchsafe to erect, make, create, and establish the said burgesses and inhabitants into another body corporate; she the said late, &c. therefore considering, and of her knowledge taking it for granted that the said borough or vill was an ancient borough, and one of her most ancient boroughs within her duchy of C. did by letters patent, of her certain knowledge and mere motion, for herself, her heirs, and successors, will, order, constitute, grant, and declare that the borough or vill of A. should be and remain for ever thereafter a free borough of itself, and that the burgesses of the said borough for ever thereafter should be one body corporate and politic by themselves in deed, fact, and name, by the name of, &c. really and fully for herself, her heirs, and successors, by her said letters patent did erect, make, establish, ordain, and create one body corporate and politic, and that by the same name they should have perpetual succession, and that they by the name of, &c. should and might be at all future times persons fit and capable in law to have, acquire, receive, possess, enjoy, and hold lands, tenements, liberties, privileges, &c. of whatsoever kind, nature, or species, they should be to them and their successors in fee and perpetuity, and also to give, grant, limit, and assign those lands, tenements, and hereditaments, and lawfully to do and execute all and singular deeds and other things by the same name: And the said late queen of her further grace, and out of her certain knowledge and mere motion, did by the said letters patent assign, nominate, make, constitute, and order her beloved subject P. C. an honest man and an inhabitant of the said borough of H. to be the first and modern mayor of the said borough of H. faithfully to execute the office of mayor of the said borough, by his oath, until, &c. and from the same day until one other person should

should be elected and in due manner sworn faithfully to execute that office, and him the said P. C. did make, ordain, constitute, establish, and declare to be the mayor of the same borough during the term aforesaid : And the said late queen did by the said letters patent for herself, her heirs, and successors, grant to the said mayor and commonalty, and their successors, that, among other things, for ever thereafter there should and might be four of the more discreet, quiet, and honest men of the borough of H. who should be aiding and assisting to the said mayor of the same borough for the time being for causes and matters touching the same borough, and who should be and should be called aldermen of the same borough, and who should be, together with the mayor of the same borough for the time being, the common council of the said borough for the making and enacting from time to time statutes, acts, and ordinances touching and concerning the public utility and advantage of the same borough, and the inhabitants thereof for the time being, by them or the major part of them, with the mayor of the same borough for the time being, for the better rule and government of the men and causes, things and businesses of the said borough for the time being for ever thereafter : And the said late queen did also by her said letters patent assign, nominate, make, constitute, and order her beloved subjects J. P. &c. inhabitants of, &c. to be the first and modern four aldermen of the same borough, and to be upon their oath, corporally to be taken before the said P. C. the said modern mayor, the common council of the said borough with the said mayor, and the said mayor and aldermen of that borough for the time being did make, create, constitute, ordain, and declare the common council of the said borough for ever : And the said late queen did by her said letters patent grant to the said mayor and commonalty of the said borough of H. and their successors, that the said mayor and commonalty for the time being, together with the said aldermen of the said borough for the time being, or the major part of the said aldermen, among other things, might or might be able to elect and admit such and so many of the more discreet, honest, and quiet men and inhabitants of the said borough to be burgesses and freemen of the same borough, as to them should from time to time seem meet and convenient : And the said late queen of her further special grace willed, and of her certain knowledge and mere motion for herself, her heirs, and successors, by the said letters patent granted to the said mayor and commonalty and their successors, that the said mayor and commonalty of the said borough of H. for the time being, or the mayor of the said borough for the time being, and the major part of the aldermen of the said borough from time to time every year for ever thereafter, on, &c. might meet and might be able to meet in the Guildhall of the same borough, or within some other convenient place within the same borough, and there might and might be able to nominate and appoint two men, then being aldermen of the same borough then and there present, to the intent that the other freemen of the same borough

though then and there present, or the major part of them, should refuse, and might and might be able to chuse one out of those two aldermen nominated and appointed to be nominated and appointed into the office of mayor of the said borough for one whole year then next following, which said man so elected to the office of mayor, after having in due manner made and taken his corporal oath, should bear the office of mayor of the said borough of H. for one whole year then next following, to wit, from Sunday, &c. until, &c. and from that day until one other person should be in due manner elected and sworn well and faithfully to execute and perform that office : And the said late queen for herself, her heirs, and successors, did by the said letters patent, of her certain knowledge and mere motion, grant to the said mayor and commonalty, and their successors, that as often as and whensoever it should happen that any alderman of the said borough of H. for the time being should die or dwell out of the said borough, or for any cause be removed from his said office of alderman of the said borough, that then and so often it should and might be lawful for the mayor and the residue of the aldermen of the said borough for the time being, or the major part of them, from time to time, when it should please and seem convenient to them, within eight days next after the amoval or death of the said aldermen in, &c. or any other convenient place within the said borough, at their will to meet and there to nominate and elect one or more other persons, then being freemen of the said borough of H. to be the alderman or aldermen of the same borough during his or their life, and that every person so nominated and elected from the time of such election should be an alderman of the said borough during his life, or otherwise if it should seem good and expedient to the mayor and the residue of the aldermen of the said borough of H. for the time being, or the major part of them, and that every person so nominated and elected, and to be nominated and elected to the office of an alderman of the said borough should take his corporal oath, before the mayor of the same borough, well and faithfully to perform and exercise the office of alderman of that borough, as by the said letters patent now remaining of record in the high court of chancery of our, &c. amongst other things more fully appears ; which said letters patent afterwards, to wit, on, &c. the then burgesles of the aforesaid borough of H. accepted, to wit, at, &c. and by virtue of the premises the burgesles have from thenceforth hitherto been and still are one body corporate and politic in deed, fact, and name, by the name, &c. : And the said J. W. further says, that on, &c. H. T. the then mayor and the then aldermen of the said borough in due manner met and assembled themselves together at and in the Guildhall of the said borough, in order to nominate and elect an alderman of the said borough, the office of the aldermen of one of the said borough then and there being vacant, and being so met and assembled, the said
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then mayor and aldermen did then and there nominate and elect him the said J. W. then and there being one of the freemen of the same borough, to be an alderman of the said borough, to fill and supply the said office so vacant, according to the directions of the said letters patent; and thereupon he the said J. W. afterwards, and before he took upon himself to act as an alderman of the said borough, and long before the time in the said information mentioned, to wit, on, &c. did in pursuance of the said letters patent take his corporal oath before H. T. the then mayor of the said borough well and faithfully to execute the said office, and was then and there duly admitted into and did take upon himself the office of alderman of the said borough, to wit, at, &c. and by virtue of the premises he the said J. W. then and there became, and on, &c. from thence continually until the time of exhibiting the said information was and still is an alderman of the said borough, to wit, at, &c.; and by that warrant he the said J. W. for and during all the time in the said information in that behalf specified, at, &c. hath used and exercised, and still doth there use and exercise the office of an alderman of the said borough, and for and during all *that time* hath there claimed to be an alderman of the same borough, and to have, use, and enjoy all the liberties, &c. to the office of the same borough belonging and appertaining, as it was and is lawful for him to do; without this, that the said J. W. the said office, liberties, &c. in the said information above-mentioned, or any of them, hath usurped and did usurp upon our, &c. in manner and form as by the said information is above alledged against him, all and singular which said matters and things he the said J. W. is ready to verify and prove as the court shall award; wherefore he prays judgment, and that the said office, &c. by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

Replication.

And the said J. B. coroner, &c. who for our, &c. having heard the said plea of the said J. W. by him the said J. W. in manner and form aforesaid above pleaded in bar, for our said present sovereign lord the king, saith, that our said present sovereign, &c. by any thing by him the said J. W. in that plea alledged, ought not to be barred from having his aforesaid information against him the said J. W.; because he says, that the office of one of the aldermen of the said borough was not vacant, as by the said plea is above alledged, and this the said coroner, &c. prays may be enquired of by the country, and the said J. W. doth the like, &c. : And the said coroner, &c. further says, that he the said J. W. was not elected to be an alderman of the same borough in manner and form as the said J. W. hath above in pleading alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. W. doth the like,

like, &c. : And the said coroner and attorney further saith, that the said John was not nor is an alderman of the said borough, as by the said plea is above alledged ; and this the said coroner and attorney, &c. prays may be enquired of by the country, and the said J. W. doth the like, &c. : And the said coroner, &c. further saith, that our said present, &c. by any thing by the said J. W. in that plea alledged, ought not to be barred from having his said information against the said J. W. because protesting that the said plea so pleaded in bar and the matters therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not from the day and year in the said information mentioned, until the exhibiting the said information, or during any part of that time been or now is an alderman of the said borough, as in and by the plea in bar is above alledged ; for replication in this behalf the said coroner, &c. says, that true it is that the said J. W. on, &c. was elected, sworn, and admitted into the office of an alderman of the said borough as hereinafter is mentioned : And the said coroner, &c. further saith, that at the time of the said election it seemed good and expedient to the said then mayor and the rest of the then aldermen of the said borough, that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence for the space of one year then next following, and for no longer time, to wit, at, &c. ; and thereupon the said J. W. on, &c. at, &c. at the said meeting of the said H. T. the then mayor of the said borough, and the then aldermen of the said borough in the said plea mentioned, was elected an alderman of the said borough, to continue in the office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence for one year then next following, and for no longer time, to wit, at, &c. and thereon the said J. W. was then and there duly sworn and admitted accordingly into the said office : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said J. W. after his said election and admission into the said office of an alderman of the said borough as aforesaid, and long before the exhibiting the said information, to wit, on, &c. at, &c. was duly and according to the direction of the said letters patent elected into the office of mayor of the said borough, to continue in the said office from thence until, &c. and from thence until some other person should be, according to the direction of the said letters patent, elected and chosen into the office and sworn to execute the said office ; and the said J. W. was then and there, according to the directions of the said letters patent, duly sworn

That Defendant was chosen alderman to continue till he should be mayor, that another was chosen mayor, whereupon his office of alderman ceased.

to execute the said office, and was then and thereupon admitted into the said office of mayor of the said borough, and duly served the said office from thenceforth until, &c. on which said last-mentioned day and year one J. R. at the borough aforesaid, was duly elected and chosen into the said office of mayor of the said borough, according to the direction of the said letters patent; and that by means of the premises the said J. W.'s said office of an alderman of the said borough, afterwards, on, &c. ceased, determined, and expired, to wit, at, &c. and this the said coroner, &c. is ready to verify and prove as the court here shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberties, &c. aforesaid: And the said coroner, &c. further saith, that our said, &c. by any thing by the said J. W. above in that plea alledged, ought not to be barred from having his said information against the said J. W. because protesting that the said plea so pleaded in bar and the matters therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not from the time in the said information mentioned, until the time of exhibiting the said information, or during any part of that time been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. says, that true it is that the said J. W. on, &c. was elected, sworn, and admitted into the office of an alderman of the said borough as hereinafter is mentioned: And the said coroner, &c. further saith, that at the time of the said election it seemed good and expedient to the said then mayor and the rest of the then aldermen of the said borough that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence until, &c. to wit, at, &c. and thereupon the said J. W. on, &c. at, &c. at the said meeting of the said H. T. the then mayor of the said borough, and the then aldermen of the said borough in the said plea mentioned, was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence until, &c.; and the said J. W. was thereupon then and there duly sworn and admitted accordingly into the said office: And the said coroner, &c. further saith, that he the said J. W. after his said election and admission into the said office of an alderman of the said borough as aforesaid, and long before the exhibiting of the information aforesaid, to wit, on, &c. at, &c. was duly and according to the directions of the said letters patent duly elected into the said office of mayor of the said borough, to con-

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time in the said office from thence until, &c. and from thence until some other person should be, according to the directions of the said letters patent, duly sworn to execute the said office, and was then and thereupon admitted into the said office of mayor of the said borough, and duly served the said office from thenceforth until, &c. on which said last-mentioned day and year one J. R. at, &c. was duly elected and chosen into the said office of mayor of the said borough, according to the direction of the said letters patent; and that by means of the premises the said J. W.'s said office of an alderman of the said borough afterwards, on, &c. ceased, determined, and expired, to wit, at, &c. and this the said coroner, &c. is ready to verify and prove as the court here shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, &c. : And the said coroner, &c. further saith, that our said, &c. by any thing by the said J. W. above in that plea alledged, ought not to be barred from having his said information against the said J. W. because protesting that the said plea so pleaded in bar and the matter therein contained are not sufficient in law to bar our, &c. from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not, from the time in the said information mentioned until the time of exhibiting of the said information, or during any part of that time been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. says, that true it is: that the said John, on, &c. was elected, sworn, and admitted into the office of an alderman of the said borough, as hereinafter is mentioned: And the said coroner, &c. further saith, that at the time of the said election it seemed good and expedient to the said then mayor and the aldermen of the said borough, that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, to wit, at, &c.; and thereupon the said J. W. on, &c. at, &c. at the said meeting of the said H. T. the then mayor of the said borough, and the then alderman of the said borough in the said plea mentioned was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, and the said J. W. was thereupon duly sworn and admitted accordingly into the

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the said office; and the said coroner, &c. further saith, that he the said J. W. after his said election and admission into the said office of an alderman of the said borough as aforesaid, and long before the exhibiting the information as aforesaid, to wit, on, &c. at, &c. was duly, and according to the directions of the said letters patent, elected into the office of mayor of the said borough, to continue in the said office from thence until, &c. and from thence until another person should, according to the direction of the said letters patent, be elected and chosen into the office of mayor of the said borough, and sworn to execute the said office; and the said J. W. was then and there according to the directions of the said letters patent duly sworn to execute the said office, and was then and there thereupon admitted into the said office of mayor of the said borough, and duly served the said office from thenceforth until, &c.; on which said last-mentioned day and year one J. R. at, &c. was duly elected and chosen into the said office of mayor of the said borough, according to the directions of the said letters patent, and was then and there duly sworn and admitted into the said office of mayor of the said borough, according to the directions of the said letters patent, and that afterwards, to wit, on, &c. at, &c. one G. J. was duly elected mayor of the said borough according, &c. and that by means of the premises the said J. W.'s said office of an alderman of the said borough afterwards, on, &c. ceased, determined, and expired, to wit, at, &c. and this the said coroner, &c. is ready to verify and prove as the court shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberty, &c. aforesaid: And he said coroner, &c. further says, that our said, &c. by any thing by the said J. W. above in that plea alledged, ought not to be barred from having his said information against the said J. W.; because protesting that the said plea so pleaded in bar and the matters therein contained are not sufficient in law to bar our said lord, &c. from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the said premises in the said plea mentioned, hath not, from the day in the said information mentioned until the exhibiting of the said information, been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. says, that true it is that the said J. W. on, &c. was elected, sworn, and admitted into the office of an alderman of the said borough; but the said coroner, &c. further saith, that on the twenty-seventh day of September, being long after the said J. W.'s said election and admission into the office of an alderman of the said borough, and long before the exhibiting the information, and before the time in the said information, at, &c. it seemed good and expedient to the then mayor and the rest of the then aldermen of the said borough that the said J. W. should be removed from his said office of an alderman of the said borough,

rough, and thereupon the said J.W. was then and there by the said then mayor and the rest of then the aldermen of the said borough, at, &c. duly removed from his said office of an alderman of the said borough, to wit, at, &c. and this the said coroner, &c. is ready to verify and prove as the court here shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded from the offices, liberties, &c. : And the said coroner, &c. further saith, that our said present, &c. by any thing by the said J. W. above in that plea alledged, ought not to be barred from having his aforesaid information against the said J. W. because protesting that the said plea so pleaded in bar and the matter therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information against the said J. W. protesting also that the said J. W. hath not, from the time in the information mentioned until the time of the exhibiting of the said information, or during any part of that time, been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. further saith, that true it is that the said J. W. on, &c. was elected, sworn, and admitted into the office of an alderman of the said borough; but the said coroner, &c. further saith, that he the said J. W. after his said election and admission into the said office, and long before the exhibiting the said information, to wit, on, &c. at, &c. resigned his said office of an alderman of the said borough, and which said resignation of his said office was then and there accepted by the said mayor and commonalty of the said borough, and this the said coroner, &c. is ready to verify and prove as the court shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberties, &c. : And the said coroner, &c. further says, that our said present lord the king, by any thing by the said J. W. in that plea above alledged, ought not to be barred from having his aforesaid information against the said J. W. because protesting that the said plea so alledged in bar and the matter therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not, from the day and year in the said information mentioned until the exhibiting the said information, or during any any part of that time been, or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. further says, that true it is that such letters patent were made and granted as in that plea is alledged, and that the burgeses of the said borough, at the time of making of the said letters patent in the said plea mentioned, did accept the said letters patent, as in the said plea is above alledged: And the said coroner, &c. further saith, that

Duly removed
from office of
alderman.

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after the accepting the said letters patent, and long before the election of the said J. W. to wit, on, &c. at, &c. the said then mayor and aldermen of the said borough, then being the common council of the said borough, did make a certain reasonable statute, act, or ordinance, commonly called a bye-law (not now extant in writing), for the avoiding of many disputes and differences concerning the election of aldermen in the said borough, and for settling their continuance in office, whereby it was ordained that every alderman of the said borough thereafter to be elected should continue in his office of alderman from the time of his election until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence for the space of one year then next following, and for no longer time, to wit, at, &c. to which said bye-law the mayor and commonalty of the said borough of H. have from the making thereof hitherto conformed themselves, and the same is still in full force, and in no wise repealed or annulled, to wit, at, &c. : And the said coroner, &c. further saith, that after the said supposed election and admission of the said J. W. into the said office of an alderman of the said borough, as mentioned in the plea, and not long before the exhibiting of the information aforesaid, to wit, on, &c. at, &c. he the said J. W. was duly and according to the said letters patent elected into the said office of mayor of the said borough, and the said J. W. was then and there according to the said letters patent duly sworn to execute the said office of mayor of the said borough, and duly served the said office of mayor from thenceforth until, &c. on which said last-mentioned day and year

Another person
duly elected
mayor at the
expiration of the
year, pursuant
to a bye-law.

one J. R. at, &c. was duly elected and chosen into the said office of mayor of the said borough, according to the directions of the said letters patent, and that by means of the premises the said J. W.'s said office of an alderman of the said borough, at the expiration of one year then next following, to wit, on, &c. ceased, determined, and expired, to wit, at the borough aforesaid, and this the said coroner, &c. is ready to verify and prove here as the court shall award; wherefore he prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberties, &c. aforesaid, &c. : And the said coroner, &c. further says, that our said present, &c. by any thing by the said J. W. above in his plea alledged, ought not to be barred from having his aforesaid information against the said J. W. because protesting that the said plea so pleaded in bar and the matter therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not, from the day and year in the said information mentioned until the exhibiting the said information, or during any part of that time, been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coro-

ner,

ner, &c. further says, that true it is that such letters patent were made and granted, as in that plea is mentioned, and the burgessees of the said borough, at the time of making the said letters patent, did accept the said patent, as by the said plea is above alledged: And the said coroner, &c. further says, that after the making and accepting the said letters patent, and long before the said election of the said J. W. to wit, on, &c. at, &c. the said then mayor and aldermen of the said borough, then being the common council of the said borough, did make a certain reasonable statute, act, or ordinance commonly called a bye-law (not now extant in writing), for the avoiding of many disputes and differences concerning the election of aldermen in the said borough, and for settling their continuance in office; whereby it was ordained, that every alderman of the said borough thereafter to be elected should continue in the said office of alderman from the time of his election until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until the, &c. to which said last mentioned bye-law the mayor and commonalty of the said borough have from the making thereof hitherto conformed themselves, and the same is still in full force, in nowise repealed or annulled, to wit, at, &c. : And the said coroner, &c. further saith, that after the said supposed election and admission of the said J. W. into the said office of an alderman of the said borough, as mentioned in the said plea, and long before the exhibiting the information aforesaid, to wit, on, &c. at, &c. he the said J. W. was duly and according to the said letters patent elected into the office of mayor of the said borough, and the said J. W. was then and there, according to the said letters patent duly sworn to execute the said office of mayor, and was then and there thereupon admitted into the said office of mayor of the said borough, and duly served the said office from thenceforth until, &c. on which said last-mentioned day and year one J. R. at, &c. was duly elected and chosen into the said office of mayor of the said borough, according to the direction of the said letters patent; and that by means of the premises the said J. W.'s said office of an alderman of the said borough afterwards, on, &c. ceased, determined, and expired, to wit, at, &c.; and this, &c.; wherefore, &c.: And the said coroner, &c. further saith that our said present, &c. by any thing by the said J. W. above in that plea alledged, ought not to be barred from having his aforesaid information against the said J. W. because protesting that the said plea so pleaded in bar and the matter therein contained are not sufficient in law to bar our said, &c. from having his aforesaid information against the said J. W. protesting also that the said J. W. by virtue of the premises in the said plea mentioned, hath not, from the day and year in the said information mentioned, or during any part of that time, been or now is an alderman of the said borough, as in and by the said plea in bar is above alledged; for replication in this behalf the said coroner, &c. further saith, that true it is that such letters patent were

QUO WARRANTO.—REPLICATION.

made and granted, as in that plea is mentioned, and that the burgesses of the said borough at the time of the making the said letters patent, did accept the said letters patent, as by the plea is above alledged: And the said coroner, &c. further saith, that after the making and accepting of such letters patent, and long before the said election of the said J. W. to wit, on, &c. at, &c. the said then mayor and aldermen of the said borough, then being the common council of the said borough, did make a certain reasonable statute, act, or ordinance, commonly called a bye-law (not now extant in writing), for the avoiding of many disputes and differences concerning the election of aldermen of the said borough, and for settling their continuance in office; whereby it was ordained that every alderman of the said borough thereafter to be elected should continue in the said office of an alderman from the time of his election until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, to which said last-mentioned bye-law the mayor and commonalty of the said borough of H. have from the making thereof hitherto conformed themselves, and the same is still in full force, in nowise repealed or annulled, to wit, at, &c. : And the said coroner, &c. further saith, that after the said supposed election and admission of the said J. W. into the said office of an alderman of the said borough as aforesaid mentioned in the said plea, and long before the exhibiting of the information aforesaid, to wit, on, &c. at, &c. he the said J. W. was duly and according to the said letters patent elected into the office of mayor of the said borough, and the said J. W. was then and there, according to the said letters patent, duly sworn to execute the the said office of mayor of the said borough, and was then and there thereupon admitted into the said office of mayor, and duly served the said office of mayor of the said borough from thenceforth until, &c. on which said last-mentioned day and year, at, &c. was duly elected and chosen into the said office of mayor of the said borough, according to the directions of the said letters patent, and that afterwards, to wit, on Sunday next, &c. at, &c. one J. G. was duly elected mayor of the said borough, according to the directions of said letters patent, and that by means of the premises the said J. W.'s said office of an alderman of the said borough afterwards, on the said, &c. ceased, determined, and expired, to wit, at, &c. and this, &c. ; wherefore, &c. : And the said coroner, &c. further saith, that the said J. W. the said office, liberties, &c. in the said information above-mentioned, hath usurped and still doth usurp upon our said, &c. in manner and form as in and by the said information is above alledged against him; and this the said coroner, &c. prays may be enquired after by the country, and the said J. W. doth the like.

And

And the said J. W. as to the said plea of the said coroner and attorney, &c. fourthly above pleaded in reply, protesting that the said plea and the matters therein contained are not sufficient in law to convict him the said J. W. of the premises above charged upon him, nor to forejudge or exclude him from the office, franchise, &c. by him claimed as aforesaid, protesting also that at the time of the said election it did not seem good and expedient to the then mayor and the rest of the then aldermen of the said borough, that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence for the space of one year, and no longer time, as the said coroner, &c. hath in his said plea fourthly above pleaded in reply in that behalf alledged; yet for plea in this behalf the said J. W. says, that he was elected alderman of the said borough, in manner and form as the said J. W. hath above in his said plea in that behalf alledged; without this that the said J. W. on, &c. at, &c. at the said meeting of the said H. T. the then mayor of the said borough, and the then alderman of the said borough, in the said plea mentioned, was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence for one year then next following, and for no longer time, in manner and form as the said coroner, &c. hath in his said plea fourthly above pleaded in reply in that behalf alledged; and this the said J. W. is ready to verify; wherefore he prays judgment, and that the said office, liberties, &c. by him claimed in manner aforesaid, may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.: And the said J. W. as to the plea of the said coroner, &c. fifthly above pleaded in reply, protesting that the said plea and the matters therein contained are not sufficient in law to convict him the said J. W. of the premises above charged upon him, nor to forejudge or exclude him from the office, liberties, &c. as aforesaid, protesting also, that at the time of the said election it did not seem good and expedient to the said then mayor and the rest of the said then aldermen of the said borough, that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence until, &c. as the said coroner, &c. hath in his said plea, fifthly above pleaded in reply, in that behalf alledged; yet for plea in this behalf the said J. W. says, that he was elected an alderman of the said borough in manner and form as the said J. W. in his said plea in that behalf; without this that the said J. W. on, &c. at the said meeting of the said H. T. the then mayor of the said

said borough, and the then alderman of the said borough, in the said plea mentioned, was elected an alderman of the said borough, to continue in the office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until, &c. in manner and form as the said coroner, &c. hath in his said plea, fifthly above pleaded, in that behalf alledged; and this, &c.; wherefore, &c.: And the said J. W. as to the plea of the said coroner, &c. sixthly above pleaded in reply, protesting that the said plea and the matters therein contained are not sufficient in law to convict him the said J. W. of the premises above charged upon him, nor to forejudge or exclude him from the office, &c. by him claimed as aforesaid; protesting also that at the time of the said election it did not seem good and expedient to the said then mayor and the rest of the then aldermen of the said borough that the said J. W. should be elected an alderman of the said borough, to continue in the said office from thence until he should have been elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, as the said coroner, &c. in his said plea, by him sixthly above pleaded in reply, alledged in that behalf; yet for plea in this behalf the said J. W. says, that he was elected an alderman of the said borough in manner and form as he the said J. W. hath above in his said plea in that behalf alledged; without this that the said J. W. on, &c. at the said meeting of the said H. T. the then mayor of the said borough, and the said alderman of the said borough, in the said plea mentioned, was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, in manner and form as the said coroner, &c. hath in his said plea, sixthly above pleaded in reply, in that behalf alledged; and this, &c.; wherefore, &c.: And the said J. W. as to the said plea of the said coroner, &c. seventhly above pleaded in reply, says, that the same plea, in manner and form as the same is above pleaded, and the matters therein contained are wholly insufficient in law to convict him the said J. W. of the premises above charged upon him, or to forejudge or preclude him from the office, &c. to which said plea, in manner and form as the same is above pleaded, he the said J. W. is not under any necessity or in any wise bound by the law of the land to answer; and this the said J. W. is ready to verify; wherefore for want of a sufficient replication in this behalf he the said J. W. as before prays judgment, and that the office, &c. by him claimed as aforesaid

fore said may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.; and for causes of demurrer in this behalf the said J. W. shews to the court here the causes following, i. e. that it does not appear, nor is it shewn in and by the same plea, how, or in what manner, or for what cause, or upon what account he the said J. W. was removed from his said office of an alderman of the said borough, and that the same plea is in many other respects uncertain, insufficient, and informal, &c.: And the said J. W. as to the said plea of the said coroner, &c. eighthly above pleaded in reply, says, that the said J. W. did not resign the office of an alderman of the said borough, in manner and form as the said coroner, &c. hath in the same plea alledged, and of this the said J. W. puts himself upon the county, and the said coroner, &c. doth the like, &c.: And the said J. W. as to the plea of the said coroner, &c. ninthly above pleaded in reply, says, that the said mayor and aldermen of the said borough, being the common council of the said borough, did not make such statute, act, or ordinance commonly called a bye-law, as the said coroner, &c. hath in his said plea, ninthly above pleaded in reply, alledged; and of this the said J. W. puts himself upon the country, and the said coroner, &c. doth the like, &c.: And the said J. W. as to the said plea of the said coroner, &c. tenthly above pleaded in reply, says, that the said mayor and aldermen of the said borough, being the common council of the said borough, did not make such statute, act, or ordinance, commonly called a bye-law, as the said coroner and attorney, &c. hath in his said plea, tenthly above pleaded in reply, in that behalf alledged; and of this the said J. W. puts himself upon the county, and the said coroner, &c. doth the like, &c. And the said J. W. as to the said plea of the said coroner, &c. eleventhly above pleaded in reply, says, that the said mayor and aldermen of that borough, being the common council of the said borough, did not make such act or ordinance, commonly called a bye-law, as the said coroner, &c. hath, &c. prays may be enquired after by the country, and the said coroner, &c. doth the like, &c.

And the said coroner, &c. as to the said plea of the said J. W. above pleaded by way of rejoinder to the said plea of our said lord the king fourthly above pleaded in reply, says as before, that the said J. W. on, &c. at, &c. at the meeting of the said H. T. the said mayor of the said borough, and the then alderman of the said borough in the said plea mentioned, was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the said office of mayor of the said borough, and from thence for one year then next following, and for no longer time, in manner

Surrejoinder
and demurrer to
rejoinder.

and form as the said coroner, &c. hath in his said plea, fourthly above pleaded in reply, in that behalf alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. W. doth the like, &c.: And the said coroner, &c. as to the said plea of the said J. W. above pleaded by way of rejoinder to the said plea of our said lord the king fifthly above pleaded in reply, says as before, that the said J. W. on, &c. at the meeting of the said H. T. the said mayor of the said borough, and the then aldermen of the said borough in the said plea mentioned, was elected an alderman of the said borough, to continue in the said office of an alderman of the said borough from thence until he should be elected mayor of the said borough, and should have fully served the office of mayor of the said borough, and from thence until, &c. in manner and form as the said coroner and attorney, &c. hath in his said plea, fifthly above pleaded in reply, in that behalf alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. W. doth the like, &c.: And the said coroner, &c. as to the said plea of the said J. W. above pleaded by way of rejoinder to the said plea of the said lord the king, sixthly above pleaded in reply, says as before, that the said J. W. on, &c. at the said meeting, &c. was elected an alderman of the said borough, and to continue, &c. from thence until he should be elected mayor of the said borough, and from thence until, &c. and until a new mayor should be elected in the room of the mayor who should succeed such alderman in the office of mayor of the said borough, in manner and form as the said coroner, &c. hath in his said plea, sixthly above pleaded in reply, in that behalf alledged; and this, &c.; And the said coroner, &c. as to the said plea of the said coroner, &c. seventhly above pleaded in reply, says, that the said plea, in manner and form as the same is above pleaded, and the matters therein contained are sufficient in law to convict him of the premises above charged upon him, and to forejudge and exclude him from the office, &c. and which said plea and the matters aforesaid therein contained, he the said coroner and attorney, &c. is ready to verify and prove as the court shall award; wherefore for as much as the said J. W. hath not answered the said plea, nor the matters therein contained, nor in anywise denied the same, but hath wholly refused to admit the verification thereof, he the said coroner, &c. as before prays judgment, and that the said J. W. may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberties, &c. aforesaid, &c.

Continuance.

At which time, to wit, on, &c. before, &c. at W. came as well the said J. B. who prosecutes for our, &c. as the said J. W. by his attorney aforesaid, and the late sheriff of the county of C. returned the names of twelve jurors, none of whom came to try the said several issues above joined as aforesaid; and hereupon the coroner,

coroner, &c. saith, that H. R. is one of the aldermen of the said borough of H. and the said H. R. is now sheriff of the said county of C. and is interested in the event of the trial of the said several issues above joined; and this he is ready to verify; and for that cause the said coroner, &c. prays the writ of our said present, &c. of *distingas* to be directed to the coroner of the said county of C. to distrain the bodies of the jurors so returned by the said late sheriff of the said county to try the said several issues above joined between the said parties, by all their lands and chattels in the said county, so that they may have their bodies to try the said several issues above joined as aforesaid, and because the said J. W. doth not deny but acknowledgeth the said allegation of the said coroner, &c. to be true, it is granted to him; therefore, &c.

Suggestion that sheriff is interested, and pray-
er that *distingas* may be directed to the coroner.

And because the said J. W. doth not confess or acknowledge the said allegation of our said present, &c. *that the said H. R. is interested in the event of the trial of the issues above joined*, but doth deny the same to be true; therefore the sheriff of the county of C. is commanded, &c.

V. m. to the sheriff.

CORNWALL. Be it remembered that J. B. esquire, coroner, &c. cometh here into the court of, &c. at W. on, &c. and for our, &c. at the relation of W. W. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the borough of H. in the county of C. is an ancient borough, and that the burgesses of the said borough now are and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of mayor and commonalty of the borough of H. in the county of C. *i. e.* at the borough aforesaid, in the county aforesaid, and that within the said borough there is or ought to be, and for and during all the time aforesaid there hath been or ought to have been a mayor of the said borough, *i. e.* at H. aforesaid, in the said county of C.; and that the office of mayor of the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, to wit, at the borough of H. aforesaid, in the said county of C. and that H. R. late, &c. on, &c. did use and exercise, and from thence continually afterwards to the time of exhibiting this information hath there usurped and exercised, and still doth there use and exercise, without any legal, &c. the office of mayor of the said borough, and for and during all the time last above-mentioned hath there claimed and still doth there claim, without any legal, &c. to be mayor of the said borough, and to have, use, and enjoy all the liberties, privileges, &c. to the said office of mayor of the said borough belonging and appertaining, which said office, liberties, &c. he the said H. R. for and during all

Information given
warranto, de-
fendant usurps
office of mayor
of H.

all the time aforesaid upon our present sovereign lord the king hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our said present lord, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said H. R. in this behalf, to make him answer to our said present, &c. and shew by what authority he claims to have, use, and enjoy the office, liberties, privileges, &c.

J. BURROW.

Plea. (a)

And now at this day, to wit, on, &c. before, &c. at W. comes the said H. R. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained, he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not, nor is he obliged by the law of the land to answer thereto; yet for plea in this behalf the said H. saith, that he doth not apprehend that our said lord the king will or ought further to impeach or implead him the said H. R. by reason of the premises in the said information specified, because he saith, that true it is that the said borough, &c. is an ancient borough, and that the burgessees of the said borough now are, and for the space of ten years now last past and upwards have been one body corporate and politic in deed, fact, and name, by the name of mayor, &c. and that within the said borough there is or ought to have been a mayor of the said borough, and that the office of mayor of the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough and the administration of public justice within the said borough, as by the said information is above suggested; but the said H. R. further says, that the borough of H. aforesaid is an ancient borough, and that the lady Elizabeth, &c. by her letters patent under her great seal of England bearing date at W. twenty-sixth January, in the twenty-seventh year of her reign, reciting amongst other things that the burgessees of the said borough of H. from time whereof, &c. had peaceably had, held, and enjoyed divers customs, jurisdictions, &c. as well by prescription as by reason, virtue, and pretext of letters patent, charters, grants, and confirmations to the burgessees of the said borough, and their heirs and successors before that time made, and also that the said burgessees and inhabitants of the said borough of H. and then humbly besought her that she would graciously confer and bestow her munificence and favour to them the said burgessees, and that she for the better rule, government, sustaining and maintaining of the said borough, would

(a) Though these pleadings are to inform in the *same* borough they are very distinct, setting out distinct customs and rights.
vouchsafe

vent safe to found, erect, make, create, and establish the said
 burgesses and inhabitants into another body corporate; she the
 said late queen therefore considering, and of her knowledge taking
 it for granted that the said borough or vill was an ancient borough,
 and one of her most ancient boroughs within her duchy of Corn-
 wall, did of her certain knowledge and mere motion, for herself,
 her heirs, and successors, will, ordain, constitute, and declare that
 the borough or vill of H. aforesaid should be and remain for ever
 thereafter a free borough of itself, and that the burgesses of the
 said borough for ever thereafter should and might be one body
 corporate and politic by themselves in deed, fact, and name, by
 the name of mayor and commonalty of the borough of H. really
 and fully for herself, her heirs, and successors, by the said letters
 patent, did erect, make, found, establish, ordain, and create one
 body corporate and politic, and that by the same name they should
 have perpetual succession, and that they by the mayor and com-
 monalty of the borough of H. should and might be at all future
 times persons fit and capable in law to have and acquire, receive,
 possess, enjoy, and hold lands, tenements, liberties, &c. of what-
 soever kind, nature, or species they should be, to them and their
 successors in fee and perpetuity, and also to give, grant, limit,
 and assign those lands, tenements, and hereditaments, and law-
 fully to do and execute all and singular other deeds and things by
 the same name: And the said late queen of her further grace,
 and out of her certain knowledge and mere motion, did by the said
 letters patent assign, nominate, make, constitute, and ordain her
 beloved subject J. C. a good man and an inhabitant of the said
 borough of H. to be the first and modern mayor of the said bo-
 rough of H. upon his oath faithfully to execute the office of mayor
 of the same borough until, &c. and from the same day until one
 other person should be elected and in due manner sworn faith-
 fully to execute that office, and him the said P. did make, ordain,
 create, constitute, establish, and declare to be the mayor of the
 said borough during the term aforesaid: And the said late queen
 did by her said letters patent for herself, her heirs, and successors,
 grant to the said mayor and commonalty that for the future for
 ever thereafter from time to time there should and might be four
 men of the more discreet, honest, and quiet character of the said
 borough of H. who should be aiding and assisting to the said
 mayor of the said borough for the time being for the causes and
 matters touching the same borough, and who should be and
 should be called aldermen of the same borough, and who should,
 together with the mayor of the said borough for the time being,
 be the common council of the same borough for making and
 enacting from time to time statutes, acts, and ordinances touching
 or concerning the public utility and advantage of the said borough
 and the inhabitants thereof for the time being, by them or the
 major part of them with the mayor of the same borough for the
 time being, for the better government and rule of the men, and
 causes, and things, and businesses of the said borough for the time
 being

being for ever thereafter: And the said late queen did also by the said letters patent assign, nominate, make, constitute, and ordain her beloved subjects, J. P. &c. inhabitants of the said borough of H. to be the first and modern four aldermen of the same borough, and to be upon their oath corporally to be taken before the said J. C. the said modern mayor and aldermen of that borough for the time being, did make, create, constitute, order, and declare the common council of the said borough for ever: And the said late queen did by her said letters patent grant to the said mayor and commonalty of the said borough of K. and their successors, that the said mayor and commonalty for the time being, together with the aldermen of the said borough for the time being, or the major part of the said aldermen for the future might and might be able to elect and admit such and so many of the more discreet, honest, and quiet men, and inhabitants of the said borough, to be the burgesses and freemen of the same borough, as to them should from time to time seem fit and convenient: And the said late queen did by the said letters patent of her further grace, and of her certain knowledge and mere motion, for herself, her heirs, and successors, grant to the said mayor and his successors, that the said mayor and aldermen of the said borough of H. for the time being, or the mayor of the said borough for the time being, and the major part of the aldermen of the borough aforesaid, from time to time every year for ever thereafter, on, &c. should meet and might and might be able in the Guildhall of the same borough, or in some other convenient place within the same borough, and there might and might be able to nominate and assign two men, then being aldermen of the same borough, before the freemen of the same borough then there present, to the intent that the other freemen of that borough then there present, or the major part of them, should and might and might be able to elect one of those two aldermen so named and assigned to the office of mayor of the said borough of H. and to be the mayor of the said borough for one whole year then next following, as by the said letters patent now remaining of record amongst other things more fully appears, which said letters patent afterwards, to wit, on, &c. the then burgesses of the said borough of H. accepted, &c. to wit, at the borough of H. aforesaid, and by virtue of the premises the burgesses of the said borough have from thenceforth hitherto been and still are one body corporate and politic in deed, fact, and name, by the name, &c.: And the said H. R. further saith, that on, &c. no election of a mayor of the said borough was had or made according to the direction of the said charter; whereupon the mayor, aldermen, and divers of the freemen of the said borough, in pursuance of the statute, &c. did meet and assemble in the Guildhall of the said borough on, &c. in order for the election of a mayor of the said borough for the year next following: And the said mayor and aldermen did then and there nominate and assign them the said H. R. &c. (then being two of the aldermen of the same borough) before the freemen of the said borough then

then there present, or the major part of them, might elect one of them the said H. R. &c. so nominated and assigned as aforesaid to be the mayor of the said borough for the year then next ensuing, and the said other freemen then and there present did then and there elect him the said, &c. to be mayor of the said borough for the year then next ensuing, to wit, at the borough of H. aforesaid, in and by virtue of the premises and by force of the statute, &c. he the said, &c. afterwards, on, &c. and continually afterwards; for and during all the time in the said information mentioned was mayor of the said borough, to wit, at the borough aforesaid, and by that warrant he the said H. R. on, &c. and from thenceforth continually during all the time in the said information in that behalf mentioned, at, &c. did use and exercise the office of mayor of the borough aforesaid, and during all that time did there claim to be mayor of the same borough, and to have, use, and enjoy all the liberties, &c. as it was lawful for him to do, without this that the said H. R. the said office, liberties, &c. in the information above-mentioned, or any of them, hath usurped or did usurp upon our, &c. in manner and form as in and by the said information is above alledged against him, all and singular which said matters and things he the said H. R. is ready to verify and prove as the court shall award; whereupon he prays judgment, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him in form aforesaid, &c.

J. WALLACE.

And the said J. B. esquire, coroner, &c. having heard the said Replication. plea of the said H. R. read for our said lord the king, saith, that that our, &c. for any thing therein alledged ought not to be barred from having his aforesaid information maintained against the said H. R. and the matters therein contained are not sufficient in law to bar our said lord the now king from having his aforesaid information maintained against the said H. R. and to which plea in manner and form as the same is above made and pleaded, our said lord the king hath not any need, nor is he bound by the law of this realm to answer, yet for a replication in this behalf the said coroner, &c. says, that true it is that the lady Elizabeth, late queen of England, by her said letters patent, reciting amongst other things as in the said plea is mentioned, did will, ordain, constitute, grant, and declare in manner and form as the said H. R. hath in his said plea in that behalf alledged, and that the said letters patent were accepted by the then burgeses of the said borough, as by the said plea is above alledged, but the said coroner, &c. further says, that our said late queen Elizabeth, by her said letters patent, willed and granted that such of the two aldermen so elected to be mayor of the same borough, as in the said plea is mentioned, after having duly taken his corporal oath, should bear the office of mayor of the said borough for one year next after such election, to wit, from, &c. until, &c. and from that day until

QUO WARRANTO.—REPLICATION.

until one other person elected to the said office in manner and form aforesaid should be duly sworn faithfully to execute and serve that office, and the said late queen further willed, and by the said letters patent for her, her heirs, and successors, of her further grace and certain knowledge and mere motion granted to the said mayor and commonalty and their successors, that every person for the future, after making of the said letters patent, elected to the said office of mayor of the said borough of H. should take a corporal oath before his last predecessor in the same office, if such predecessor should be living and be then present, and if such predecessors should be then dead or absent, then before the recorder and aldermen of the same borough of H. there present, or the greater part of them, for the faithful execution of the said office of mayor of the said borough, as by the said letters patent so now remaining of record in, &c. among other things more fully appears, and this the said coroner, &c. is ready to verify; wherefore inasmuch as the said H. R. hath not in or by the said plea alledged that he was duly sworn into the said office of mayor, or he the said coroner, &c. prays judgment, and that the said H. R. may be convicted of the said premises: And the said coroner, &c. further says, that the mayor, aldermen, and divers of the freemen of the said borough, did not meet or assemble in the Guildhall of the said borough on, &c. in the said plea mentioned, and in order for the election of a mayor of the same borough for the year next following, as the said H. R. hath above in pleading alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said H. R. doth the like, &c.: And the said coroner, &c. further saith, that the mayor and aldermen of the said borough did not at any such meeting and assembly mentioned in the said plea to be held on, &c. nominate or assign him the said H. R. &c. then being two of the aldermen of the same borough, before the freemen of the same borough then there present, to the intent that the other freemen of the same borough then and there present, or the major part of them, might elect one of them the said H. R. &c. to be mayor of the said borough for the year then next ensuing, as the said H. R. hath above in pleading alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said H. R. doth the like, &c.: And the said coroner, &c. further says, that the freemen of the said borough met and assembled on, &c. did not elect him the said H. R. to be mayor of the said borough for the year then next ensuing, as the said H. R. hath above in and by his said plea in that behalf alledged, and this the said coroner, &c. prays may be enquired of by the country, and the said H. R. doth the like, &c.: And the said coroner, &c. further says, that the said H. R. on, &c. and continually afterwards, for and during all the time in the said information in that behalf mentioned, or during any part of that time, was not mayor of the said borough, as the said H. R. hath above in his said plea alledged; and this he the said coroner, &c. prays may be enquired of by the country, and the said H. R. doth the like, &c.: And the said

aid coroner, &c. further says, that he the said H. R. the said
 &c. in the said information above-mentioned hath usurped,
 and did usurp upon our said present, &c. in manner and form as la
 and by the said information is above alledged against him; and
 his the said coroner, &c. prays may be enquired of by the country,
 and the said H. R. doth the like, &c.

J. MANSFIELD.

And the said H. R. as to the said plea of the said J. B. co- Demurrer.
 roner, &c. by him first above pleaded in reply, says, that the same
 plea and the matters therein contained are wholly insufficient in
 law to convict him the said H. R. of the premises above charged
 upon him, or to prejudice or exclude him from the office, &c.
 aforesaid, to which said plea in manner and form aforesaid above
 pleaded in reply, he the said H. R. is not under any necessity, nor
 obliged by the law of the land to answer, and this he is ready to
 verify; wherefore for want of a sufficient replication in this be-
 half, the said H. R. as before prays judgment, and that the office,
 liberties, &c. by him claimed in form aforesaid, may be allowed
 and adjudged to him, and that he may be dismissed and discharged
 by the court here of and from the premises above charged upon
 him, &c.: And the said H. R. as to the said plea of the said J. B.
 coroner, &c. by him secondly above pleaded in reply, says, that
 the same plea and the matters therein contained are wholly in-
 sufficient in law to convict him, or to prejudice or exclude him
 the said H. R. from the office, &c. to which said plea in manner
 and form aforesaid above pleaded in reply, he the said H. R. is not
 under any necessity or obliged by the law of the land to answer,
 and this he is ready to verify; wherefore for want of a sufficient
 replication in this behalf, the said H. R. as before prays judg-
 ment, and that the office, &c. by him claimed in form aforesaid
 may be allowed and adjudged to him, and that he may be dismissed
 and discharged by the court here of and from the premises above
 charged upon him, &c.: And the said H. R. as to the said plea of
 the said J. B. coroner, &c. by him thirdly above pleaded in reply,
 says, that the same plea and the matters therein contained are
 wholly insufficient in law to convict him the said H. R. of the
 premises above charged upon him, or to forejudge or exclude
 him from the office, &c. to which said plea in manner and form
 aforesaid above pleaded in reply, he the said H. R. is not under
 any necessity or obliged by the law of the land to answer, and this
 he is ready to verify; wherefore for want of a sufficient replica-
 tion in this behalf, the said H. R. as before prays judgment, and
 that the office, &c. by him claimed in form aforesaid may be al-
 lowed and adjudged to him, and that he may be dismissed and dis-
 charged from the court here of and from the premises above
 charged upon him, &c.: And the said H. R. as to the said plea
 of the said J. B. coroner, &c. by him fourthly above pleaded in
 reply, says, that the same plea and the matters therein contained
 are wholly insufficient in law to convict him the said H. R. of
 the

the premises above charged upon him, or to forejudge or exclude him from the office, liberties, &c. aforesaid, to which plea in manner and form aforesaid above pleaded in reply, he the said H. R. is not under any necessity or obliged by the law of the land to answer, and this he is ready to verify; wherefore for want of a sufficient replication in this behalf, the said H. R. as before, prays judgment and that the office, &c. by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.: And the said H. R. as to the said plea of the said J. B. coroner, &c. by him fifthly above pleaded in reply, says, that the same plea and the matters therein contained are wholly insufficient in law to convict him the said H. R. of the premises above charged upon him, or to forejudge or exclude him from the office, &c. aforesaid, to which said plea in manner and form aforesaid above pleaded in reply, he the said H. R. is not under any necessity nor obliged by the law of the land to answer, and this he is ready to verify; wherefore for want of a sufficient replication in this behalf, the said H. R. as before prays judgment, and that the office, &c. by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.: And the said H. R. as to the said plea of the said J. B. coroner, &c. by him lastly above pleaded in reply, says, that the same plea and the matters therein contained are wholly insufficient in law to convict him the said H. R. of the premises above charged upon him, or to forejudge or exclude him from the office, &c. aforesaid, to which said plea in manner and form aforesaid above pleaded in reply, he the said H. R. is not under any necessity or obliged by the law of the land to answer, and this he is ready to verify; wherefore for want of a sufficient replication in this behalf, the said H. R. as before prays judgment, and that the office, &c. by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

J. WALLACE.

Joinder in demurrer.

And the said coroner, &c. says, that the said plea of the said coroner, &c. first above pleaded, and the matters therein contained are sufficient in law to convict the said H. R. of the premises above charged on him, and to forejudge and exclude him from the office, liberties, &c. aforesaid, and which said plea and the matters therein contained he the said coroner and attorney is ready to verify and prove, as the said court here shall award; wherefore inasmuch as the said H. R. hath not as yet made any answer to the said plea so pleaded in reply in this behalf, or in any manner denied the same, but hath altogether refused to admit the verification thereof, he the said coroner, &c. as before prays judgment, and that the said H. R. may be convicted of the pre-

mises

lives above charged on him, and be forejudged and excluded from the office, liberties, &c. aforesaid, &c.

J. DUNNING.

GENERAL VIEW OF THE CONSTITUTION OF THE CITY OF W. TO WHICH THE FOLLOWING PLEADINGS RELATE.

Which may be reduced to two general heads or divisions: first, the members or *constituent* or *integral* parts; and, secondly, the *mode of electing* or creating each.

The *constituent* or *integral* parts consist of,

- First, a mayor.
 - Second, two bailiffs.
 - Third, a recorder (a).
 - Fourth, aldermen.
 - Fifth, aldermen justices.
 - Sixth, the twenty-four assistants to the mayor.
 - Seventh, the freemen at large.
- But as the aldermen and justices seem to form but one part, the corporation will then consist of six parts only.

The *mode of electing* or creating each.

The first is the mayor.

The persons capable of election are,

- First, all such as had been before mayors.
 - Second, such as had served the office of bailiff, constable, and chamberlain, or the major part of those offices, or,
 - Thirdly, such as had been discharged from serving those offices by an assembly of the corporation, which is termed "calling to the bench."
 - Fourthly, out of the aldermen, and,
 - Fifthly, inhabiting at the time of election.
- He is to be chosen annually on the Monday next after the fourteenth of September (being the Elevation of the Holy Cross).

The method of chusing him.

Upon every election two are put up and proposed as after-mentioned to the whole body as candidates for the office, out of which one is chosen, and the other or unsuccessful candidate remains to be joined at the next election with another person to be nominated as after mentioned, so that there always are two candidates or lytes named by the superior part of the corporation, out of which the corporation at large (who are upon this occasion all upon a footing) or the major part chuse one, and the other remains, which other we call the *remanet man*.

The above is the *general view* of this election.

(a) Note. The town clerk is by the charter only deputy to the recorder.

The *particular* mode is,

First.

On the said annual election day there is an assembly of the mayor, bailiffs, and commonalty, at a house called St. John's House. There all the names of the corporation are called over and that done, all those (present) as had served the office of mayor (except the remanet man and the present mayor) withdraw into a room called the *election chamber*.

First, there they chuse two persons qualified as above by a plurality of voices, and if equal the senior alderman has the casting voice.

Secondly, Then they return and present those two names to the mayor.

Thirdly, Then the mayor strikes out one and adds the other to the remanet man.

Fourthly, Then proposes the then remaining two as the candidates or lytes to the whole body of the corporation, and

Lastly, the whole body chuse one out of these two lytes to be the mayor by a plurality of voices present for the year ensuing viz. from Michaelmas day then next ensuing, and upon this he is sworn into his office before his next predecessor, mayor and recorder, &c. (a)

Secondly.

The two bailiffs. They are chosen on the same day with the mayor, out of the inhabitant freemen at large.

They form part of the assembly for the election of mayors and freemen.

Thirdly.

The recorder is an officer for life: by the charter he or deputy is to be present at the election of aldermen. But by the usage the aldermen may be chosen without the presence of recorder.

Q. Whether his presence is necessary in the election of a mayor? Or town clerk the like?

Not necessary
usage.

A. He is to be present on the annual election day in December.

Q. Whether his presence be necessary at the election of freemen? He seems to be next in office to the mayor.

(a) Note. Formerly the mayor used to be sworn before the barons of the exchequer, but on a charter dated the thirtieth of August, eighth of Henry the Eighth, he was within six days after his election to be sworn before his next and immediate predecessor and two or three aldermen.

And the like method in the case of a mayor dying in his mayoralty; but in such case the next preceding mayor acts

as mayor for the purpose of choosing a successor, unless such preceding mayor chuses to serve out the remainder of the year which he may do; and if the remanet man dies a successor is to be chosen by the aldermen or the mayor part, and if equal the surviving alderman has the casting vote.

The whole of this seems not only to have been the ancient usage, but declared to be so by the bye laws in 1663 and 1705.

It seems by the charter as if the town clerk were no more than deputy to the recorder, though in fact he is chosen for life by the corporation and a grant made accordingly, nay it is even granted in reversion.

Aldermen.

Any freeman is capable of this office, whether an inhabitant or not. Fourthly.

You observe that the charter recites that the corporation had beyond memory consisted of one mayor, six aldermen, &c. and other public officers, and then ordains that there shall be one mayor, one recorder, six aldermen, &c. and twenty-four persons to be assistants to the mayor, to be called *le viginti quatuor*; and then directs the vacancies in the aldermen's office to be filled up by the mayor, recorder, or his deputy, and the other surviving aldermen and twenty-four, or the major part of them.

That the mayor, recorder, and aldermen shall be justices.

And directs each alderman when chosen to take an oath before the mayor and recorder.

That all future mayors, aldermen, &c. shall be elected at the said times, &c. as heretofore.

Notwithstanding the above the aldermen have never in fact been limited to six or any other precise number.

For all such that have served the office of mayor become by that means aldermen, and yet they take no oath at all, save as mayor, till they are chosen justices, and then only an oath as justice, and never take an oath as aldermen, the form of such an oath remains amongst the corporation archives.

And there is another mode used for the election of aldermen, viz.

When the number of aldermen have been less than six, and what is called the annual election day for justices, &c. viz. the first Saturday in December, then the deficiency is supplied out of the twenty-four, and the person so chosen is by one and the same act chosen or constituted an alderman justice.

So that there are often more than six aldermen besides the mayor, and there have been nine, ten, or eleven at a time.

By a charter of Henry the Sixth there are to be four aldermen only, and those to be chosen annually, under title *Justice*.

The Justices.

Aldermen are only eligible if enough. Fifthly.

You observe that the charter ordains that the aldermen as well as the mayor and recorder shall be justices, which seems to imply that they shall *ipso facto* become justices by being chosen aldermen without any further election.

But the usage is otherwise, and it is thus, viz.

There is an annual election day for choice of all the officers of the corporation, save the mayor, bailiffs, and chamberlain, held the mayor and twenty-four on the first Saturday in December.

The mayor, recorder, and aldermen, are always of this class called the twenty-four.

On this day the twenty-four chuse six out of those who have served the office of mayor, if there are so many to be justices of the year ensuing only. But if there are not six such aldermen, the deficiency is supplied by the twenty-four out of their own body, as above observed.

But those six justices have no superiority over or more privilege than a different from the other aldermen, save their being justices of the peace for one year only, and save that they must be inhabitants.

Q. Whether they continue aldermen after the expiration of the year, if they should not be chosen justices the next year?

Sixthly.

The twenty-four Assistants.

The charter is silent as to the persons capable of election into this office, and also to the mode of election and duration, save that it ordains there shall be twenty-four persons *de melioribus civibus* of the same city, to be assistant to the mayor, and be called *le viginti quatuor*, and save that it appoints the first twenty-four *cives* and inhabitants to be so *quamdiu bene gesserint in officio illa*.

Notwithstanding the above charter which limits the number to twenty-four, there are seldom so few of this body, for they are mostly more, and often thirty or forty.

They are elected out of the freemen in like manner as freemen at large are elected. Their peculiar privilege distinct from the other freemen is, that they, together with the mayor, recorder, and aldermen (in exclusion of the aldermen at large), held the said annual assembly on the said first Saturday in December for the choice of annual officers.

Seventhly.

Freemen at large.

This class derives its whole existence from usage, for there does not appear any thing said about them in the charter.

By usage. They are indefinite in number, and this franchise is acquirable by election only, and not by birth or servitude, &c. and foreigners as well as inhabitants are capable of election.

The method of election of freemen, as well as doing all other corporate acts to be transacted at other times than the charter and annual election days is this, viz.

The mayor gives notice to the aldermen by a verbal message sent to each by the serjeant at mace, to meet him at the council chamber at such an hour (usually of that day), without specifying the nature of the business they are summoned upon, and when met he proposes the business, whether it be to grant a lease, to make freemen, or otherwise, and if the proposal is rejected by a majority,

majority, there the matter stops, but if approved by such majority, an entry of it is made in a book, and then either on that day or a subsequent day the mayor orders an assembly of the whole corporation to be summoned at the distance of not less than three whole clear days (or five days including the notice day and the intended assembly day) to meet in the town hall.

At this general assembly in the town hall the minutes or acts of the council chamber or court of aldermen are read over, and there proposed to the body at large, who, or the major part, may confirm or reject.

Besides the above seven (or rather six) constituent or integral parts of the corporation, there seems to be another class of consequence, viz.

Those of the bench.

This class consists of those freemen who are discharged by the corporation from serving the offices of bailiff, constable, and chamberlain, and consequently confers on them a capability of being chosen mayor. Lastly.

But this does not seem to be an essential or integral branch of the corporation, nor does the charter or usage seem to require such a class.

Pleas before our lord the king at Westminster, of Trinity term, 10. George III. &c.

Amongst the pleas of the crown.

ROLL.—

REX } HAMPSHIRE. Be it remembered that J. B. Information *quo*
against } esquire, coroner, &c. who for, &c. in that behalf *warranto*, de-
SPEARING. } prosecutes in his proper person, cometh here into fendant usurps
the court of our, &c. before, &c. at W. on, &c. and for our, &c. the office of
at the relation of A. D. of, &c. according to the form of the mayor of the city
statute, &c. brought here into court of our, &c. before, &c. of W.
then there a certain information in nature of *quo warranto*
against J. S. of the city of W. gentleman, which said information
followeth in these words, *i. e.* Hampshire. Be it remembered
that J. B. esquire, coroner, &c. who for our, &c. in his proper
person cometh here into the court of our said lord, &c. at W. on,
&c. and for our said, &c. at the relation of A. D. of, &c. ac-
cording to the form of the statute, &c. giveth the court here to
understand and be informed, that the city of W. in the county of
S. is an ancient city, and that the mayor, bailiffs, and com-
monalty of the said city now are, and for the space of ten years
now last past have been, and were one body politic and corporate
in deed, fact, and name, by the name of the mayor, &c. of the
city of W. *i. e.* &c. and that the office of mayor of the said city,
for and during the whole time aforesaid, hath been and still is a
public office, and an office of great trust and pre-eminence within
the said city, touching the rule and government of the said city
and the administration of public justice within the same city, to
wit, at, &c. and that J. S. of, &c. upon, &c. at, &c. did use and
exercise, and from thence continually afterwards, and until and

upon the nineteenth of September, &c. did there use and exercise without any legal warrant, &c. the office of mayor of the said city, and for and during the whole time last above-mentioned did there claim without any legal warrant, &c. to be mayor of the said city, and to have, use, and enjoy all the liberties, &c. to the office of mayor of the said city belonging or appertaining, which said office, liberties, &c. he the said J. S. for and during the whole time last above-mentioned upon our said, &c. without any legal, &c. did usurp, to wit, at, &c. in contempt of our, &c. to the great damage and prejudice of his prerogative, and also against his crown and dignity; whereupon the said coroner of, &c. for, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. S. in this behalf, to make him answer to our, &c. and shew by what authority he claimed to have, use, and enjoy the office, liberty, &c. of, &c. wherefore the sheriff was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer our, &c. touching and concerning the premises aforesaid.

Plea.

And now, that is to say, on, &c. before, &c. at W. cometh the said J. S. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and troubled, and that by no means justly, because protesting that the said information and the matter therein contained are insufficient in law, and that he need not, nor is he bound by the law of the land to answer thereto; yet for plea in this behalf he saith, that our said lord the king ought not to impeach or implead him the said J. S. by reason of the premises in the said information above specified, because he saith, that true it is that the city of W. in, &c. is an ancient city, and that the mayor, bailiffs, and commonalty of the said city now are, and for the space of ten years now last past and upwards have been, and were one body corporate and politic in deed, &c. by the name of, &c. *i. e.* at, &c. and that the office of mayor of the said city for and during the whole time aforesaid hath been and still is a public, &c. as by the said information is above supposed: And the said J. S. further saith, that the citizens and inhabitants of the said city of W. from time whereof, &c. until, &c. third January, thirteenth Elizabeth, have been a body corporate and politic by various names of incorporation, having in the same before that time, a mayor, two bailiffs, and other officers for the better government thereof, and that the said lady Elizabeth, late, &c. by her letters patent sealed under, &c. bearing date at W. twenty-third January, in said thirteenth year, of her special grace, certain knowledge, and meer motion, by the said letters patent, for herself, her heirs, and successors, willed, ordained, constituted, granted, and declared that the said city of W. aforesaid from thenceforth for ever should be and remain a free city of itself, and that the citizens and inhabitants of the said city

from

from thenceforth for ever should be one body corporate and politic in deed, &c. by the name, &c. and them by the name, &c. the said late queen by the said letters patent, for herself, her heirs, and successors really and fully erected, made, ordained, and created one body corporate and politic, and that by the same name they should have perpetual succession, and the said late queen further willed, and by the said letters patent for herself, her heirs, and successors, granted that from thenceforth for ever there might and should be in the city of W. aforesaid, one mayor, one recorder, six aldermen, two bailiffs, two coroners, and two constables of the more ancient, principal, better sort, and more honest of the inhabitants and citizens of the said city, and that there should be twenty-four men of the better, more discreet, and more honest of the citizens of the said city, assistants to the mayor of the said city for the time being, who should be called the twenty-four; and the said late queen by her said letters patent named, assigned, and constituted her beloved E. C. the then mayor of the said city, to be the first modern mayor of, &c. and that he should remain and continue in the office of mayor of the said city until, &c. and on the same day, until another should be elected, preferred, and sworn into that office, according to the ordinances, statutes, and ancient customs of the city aforesaid, if the said E. C. should so long live: And the said late queen by her said letters patent assigned, named, &c. her beloved and faithful subject T. H. the then recorder of the said city of W. to be and continue recorder of the same city during his life, to have, enjoy, and exercise the said office of recorder of the city aforesaid, and also to do and execute all and all manner of things which in anywise did belong or appertain to the office of recorder during his life, by himself or by his sufficient deputy, who should be called the town-clerk of the said city, and also W. B. &c. &c. citizens and inhabitants of the said city of W. to be the then modern aldermen of the said city during their natural lives, and if they should so long behave themselves well in the said office, and also the said late queen by her said letters patent did nominate, ordain, &c. her beloved subjects, J. W. &c. &c. citizens and inhabitants, to be the first and then modern twenty-four assistants to the said mayor, so long as they should behave, &c. and that every mayor of the said city of W. who should be for the future, immediately after his election should take his corporal oath in the Guildhall of the city of W. before his next predecessor who had then been mayor of the said city then living, and before the recorder then living, or his deputy, and the commonalty of the same city, or the major part of them, well and faithfully to execute and exercise the office of mayor of the said city: And the said late queen by her said letters patent, for herself, her heirs, and successors, granted to the said mayor, bailiffs, and commonalty of the city of W. and their successors, that as well the mayor, aldermen, and bailiffs, as all and singular coroners, constables, &c. thereafter to be elected, should for ever thereafter be elected at the same times and in the manner

manner and form as for a long time before the making the said letters patent they had been accustomed to be elected, created, or made, or any of them had been accustomed, &c. as by the said letters patent inrolled and remaining of record in, &c. it doth more fully amongst other things appear, which said letters patent soon after the making the same, to wit, on, &c. the then mayor, bailiffs, and commonalty, citizens and inhabitants of the said city of W. then and there accepted and assented thereunto, to wit, at, &c.: And the said J. S. further saith, that during all the said time whereof, &c. there have been and are divers freemen of the said city called and distinguished by the name of the freemen of the bench, who have been called to the bench in a meeting or assembly of the aforesaid body corporate, before the grant of the said letters patent, and at a meeting or assembly of the said mayor, bailiffs, and commonalty, since the granting of the said letters patent, which said freemen of the bench for the time being, whereof the memory of, &c. have been exempt and discharged from serving the offices of bailiffs, constables, and chamberlain of the said city, to wit, at, &c.: And the said J. S. further saith, that for a long time before the granting the said letters patent, and ever since, two persons, being freemen and inhabitants of the said city, and who had respectively been mayor of the said city, or had served the offices of bailiff, constable, and chamberlain of the said city, or the major part of them, or had been called to the bench, were and have been put in nomination for the office of mayor of the said city in the manner hereinafter mentioned, one of which said persons so put in nomination for the office of mayor of the said city hath been put in nomination for the office of mayor of the said city at the then last preceding election of mayor of the said city, or hath been elected to be put in nomination for the mayor of the said city in the room of the person so put in nomination for the mayor of the said city, in the room of a person so put in nomination and happening to die before the next election of the said city, or hath been elected to be put in nomination in the room of a person so elected and happening to die before the next election of a mayor of the said city, and the other of the said persons so put in nomination for the office of mayor of the said city, hath been elected to be put in nomination for the office of mayor of the said city, in the manner hereinafter mentioned, to wit, at, &c.: And the said J. S. further says, that the method and manner of election of mayor of the said city of W. aforesaid, used and observed in the said city of W. aforesaid for a long time before the granting of the said letters patent, and until that time had been, and ever since hath been in manner following, to wit, that yearly and every year, on, &c. an assembly of the mayor, bailiffs, and commonalty of the said city of W. hath been held at, &c. for the nomination and election of a mayor of the said city, at which said assembly such of the freemen of the said city then present who before that time had served the office of mayor of the said city (except the then mayor of the said city for the time being,

being, and such person who then at the said last preceding election of mayor had been put in nomination for the office of mayor of the same city, and was not then elected mayor thereof, or had been elected to be put in nomination for the office of mayor of the said city in the room of such person so put in nomination and happening to die before the next election of a mayor of the said city, or had been elected to be put in nomination for the office of mayor of the said city in the room of such person so elected and happening to die before the next election of mayor of the said city) have withdrawn themselves and were used and accustomed to withdraw from the said assembly into a room in the said house called, &c. in order for the nominating of two freemen, inhabitants of the said city, out of such freemen of the said city as had been mayor of the said city, or had served the office of bailiff, constable, or chamberlain of the said city, or the major part of those offices, or had been called to the bench, to the end that of those two freemen so nominated one might be the then mayor of the said city, and be joined in the nomination for the office of mayor of the said city with such other freeman being an inhabitant as aforesaid who had been put in nomination for the office of mayor of the said city, and had not been elected mayor thereof, or had been elected to be put in nomination for the office of mayor of the said city as aforesaid, and after such freemen so withdrawing had agreed in the nominating two such freemen, inhabitants as aforesaid, one of whom to be joined in the nomination as aforesaid, they have returned, and have used and been accustomed to return on the same day to the same assembly of mayor, bailiffs, and commonalty, and being so returned have then and there presented, and have used and been accustomed then and there to present to the then mayor of the said city then present in the same assembly the names of such freemen in writing by them so agreed to be nominated as aforesaid, to the end that of those two persons so nominated the said then mayor might join one in nomination for the office of mayor of the said city, together with such freemen who had been put in nomination for the office of mayor of the said city at the then last preceding election of mayor of the said city, or had been elected as aforesaid; and the then mayor for the time being hath thereupon then and there at the said assembly put in nomination, and hath been used and accustomed to put in nomination one of the said freemen so nominated as aforesaid, together with such freeman who had been put in nomination at the last preceding election, or been elected as aforesaid, to the end that of those two persons so put in nomination by the mayor, one of them might then be elected by the then mayor, bailiffs, and commonalty of the said city, to be the mayor of the said city upon the feast of, &c. then next following, and one year then next ensuing; and that the mayor, bailiffs, and commonalty of the said city so assembled for the time being, have at such assembly elected and chosen one of the said two persons so put in nomination

mination as aforesaid to be mayor of the said city as aforesaid, and that such one of the said two persons so put in nomination as aforesaid as had a majority of votes or voices of the said mayor, bailiffs, and commonalty there present at such election, and having in due manner taken his corporal oath for the faithful execution of the office of mayor of the said city, was, and hath been, and used to be before the making of the said letters patent, and ever since the making of the said letters patent was, and hath been mayor of the said city on, &c. next following such election, and for one year then next following such election: And the said J. S. further saith, that on, &c. an assembly of the mayor, bailiffs, and commonalty of the said city was held, at, &c. for the nomination and election of a mayor of the said city, at which said assembly divers freemen of the said city who had served the office of mayor of the said city, and divers other freemen of the said city who had served the office of, &c. had attended and were present; and that such of the said freemen then present as had served the office of mayor of the said city (except the then mayor of the said city, and J. W. one of the freemen and inhabitants of the said city, who since the then last preceding election of mayor of the said city, had been elected to be put in nomination for the office of mayor of the said city, in the room of J. W. his late father, deceased, late one of the freemen and inhabitants of the said city, who since the then last preceding election of mayor of the said city had been elected to be put in nomination for the office of mayor of the said city in the room of J. J. late one of, &c. who hath been put in nomination for the mayor of the same city at the last preceding election of mayor of said city, had not been elected, and had died after the said last-mentioned preceding election of mayor of the said city, did withdraw into the said room called the election chamber, in order for the nominating two freemen, inhabitants of said city, out of such the freemen as respectively had been mayor of the said city, or had served the office of bailiffs, constables, and chamberlain of the said city, or the major part of those offices, or had been called to the bench, to the end that of those two freemen so nominated, one might by the then mayor of the said city be joined in nomination, &c. with the said J. W. the son who had been elected to be put, &c. and the said freemen, being so withdrawn from the said assembly into the election chamber aforesaid, for the purpose aforesaid, did then and there agree to nominate, and did then and there nominate the said J. S. and one J. W. then and there being freemen and inhabitants, and each of them then and there being, &c. and the said J. S. having before served the office of mayor of the said city, and the said J. W. having served the office of mayor of the said city, and the said J. W. having served the major part of the offices of bailiff, &c. and having been also called to the bench, one of whom to be joined by the then mayor in such nomination as aforesaid, and having so agreed, afterwards on the

the same day and year, did return to the said assembly of the mayor, &c. so held in, &c. and then and there did present to the then mayor of, &c. the names of the said J. S. and J. W. then and there being two such freemen and inhabitants of the said city, in writing, as being so nominated as aforesaid, to the end that of those two freemen the said then mayor might join one of them in nomination together with the said J. W. the son, for the purpose aforesaid, and thereupon the then mayor of the said city did then and there put in nomination the said J. S. together with the said J. W. the son, who had been called to the bench and was then a freeman of the bench, at, &c. that of those two persons one of them might be then elected by the mayor, bailiffs, and commonalty of the said city, to be mayor of the said city, on, &c. and for one year then next ensuing; and thereupon the said then mayor, bailiffs, and commonalty did then and there at the said assembly proceed to the election of a mayor of the said city, and that he the said J. S. being so put in nomination as aforesaid, then and there had a majority of the votes or voices of the mayor, bailiffs, and commonalty of the said city, at, &c. and was thereupon then and there duly elected mayor to execute the said office, on, &c. and for one year, &c.: And the said J. S. further saith, that immediately after he had been so elected to be mayor of the said city as aforesaid, and before he was admitted to execute or exercise the said office, or did take upon himself the said office of mayor, to wit, the same day and year in, &c. he the said J. S. took his corporal oath upon the Holy, &c. before, &c. the then mayor his next predecessor, &c. recorder of the same city, and commonalty of the said city, then and there assembled, well and faithfully to execute and exercise the office of mayor of the said city, and all other oaths in this behalf requisite and usually administered and taken, and thereupon and by virtue thereof, he the said J. S. on, &c. and from thence continually afterwards unto, &c. did use and exercise the office of mayor of the said city, and by reason of the premises he the said J. S. on the said, &c. was mayor of the said city, to wit, at, &c. and by that warrant he the said J. S. during all the time in the said information in that behalf mentioned, used and exercised the office of mayor of the said city, and for and during all that time there claimed to be mayor of, &c. and to have, use, and enjoy all the liberties, &c. belonging and appertaining to the office of mayor of the said city, as it was lawful for him to do; without this that the said J. S. the office, liberties, &c. in the said information mentioned, or any of them, did usurp upon our, &c. in manner and form as by the said information is above supposed, all and singular which said matters and things he the said J. S. is ready to verify as the court shall award; wherefore he prays judgment, and that the aforesaid office, liberties, &c. by him above claimed may be adjudged and allowed to him, and that

he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Replication.

There are not divers freemen called to the bench who are exempt from serving office of bailiff, &c.

And the said J. B. esquire, coroner, &c. who for, &c. being now present here in court, and having heard the said plea of him the said J. S. by him above pleaded in bar in manner and form aforesaid, for our said, &c. faith, that for any thing above alledged in the said plea by him the said J. S. our said, &c. ought not to be barred or precluded from his aforesaid information against him the said J. S. because protesting that the said plea of him the said J. S. by him above pleaded in manner and form aforesaid, and the matters therein contained are altogether insufficient in law to preclude our, &c. from having his aforesaid information against the said J. S. nevertheless for replication to the said plea in this behalf, the said coroner, &c. for our, &c. faith, that true it is that the said late queen Elizabeth did by her said letters patent in the said plea make such her grant to the said mayor, &c. of the said city of W. &c. as in the said plea is mentioned, and which said letters patent the said then mayor, &c. of the said city of W. then and there accepted and assented thereunto, as in the said plea is mentioned, but that during all the said time whereof, &c. there have not been nor are divers freemen of the said city called and distinguished by the name of freemen of the bench who have been called to the bench at a meeting or assembly of the aforesaid body corporate before the grant of the said letters patent, and at a meeting or assembly of the said mayor, bailiffs, and commonalty since the granting of, &c. which said freemen of the bench for the time being, for all the said time whereof, &c. have been exempt and discharged from serving the office of bailiff, constable, and chamberlain of the said city, in manner and form as the said J. S. hath above in his said plea alledged; and this the said coroner, &c. for our, &c. prays may be enquired of by the country, &c. and the said J. S. doth so likewise: And the said coroner, &c. for our, &c. further says, that for a long time before the granting, &c. and ever since, two persons being freemen and inhabitants of the said city, and who had respectively been mayor of the said city, or served the office of bailiff, constable, or chamberlain of the said city, or the major part of these offices, or had been called to the bench, were not nor have been called to the bench for the office of mayor of the said city in manner in the said plea mentioned, one of which said persons, so put in nomination for the office of mayor of the said city, has been put in nomination for the office of mayor of, &c. at the then last preceding election of mayor of, &c. or hath been elected to be put in nomination for mayor of the said city in the room of a person so put in nomination and happening to die before the next election of a mayor of the said city, and the other of the said persons so put in nomination for the office of mayor of the said city in manner in the said plea mentioned as the said J. S.

J. S. hath above in his said plea alledged, and this the said coroner, &c. for our, &c. prays also may be enquired of by the country, and the said J. S. doth so likewise: And the said coroner further saith, that the method and manner of election of the city of W. aforesaid, used and observed within, &c. for a long time before the time of the granting, &c. and until that time had not been nor ever since hath been in manner following, *i. e.* that yearly and every year, on, &c. an assembly of the mayor, bailiffs, and commonalty of the city of W. aforesaid hath been held at, &c. for the nomination and election of a mayor of the said city, at which said assembly such of the freemen of the said city then present who before that time had served the office of mayor of, &c. except the then mayor of the said city for the time being, and such person who then at the then last preceding election of the mayor of the said city had been put in nomination for the office of mayor of the same city, and was not elected mayor thereof, or had been elected to be put in nomination for the office of mayor of, &c. in the room of such person so put in nomination and happening to die before the next election of a mayor of, &c. or had been elected to be put in nomination for the office, &c. in the room of the person so elected and happening to die before the next election, &c. have withdrawn themselves, and were used and accustomed to withdraw from the said assembly into a room in, &c. called the election chamber, in order for the nominating two freemen inhabitants, &c. aforesaid, out of such freemen of said city as had been mayor of, &c. or had served the office of bailiff, constable, and chamberlain of, &c. or the major part of those offices, or had been called to the bench, to the end that of those two freemen so nominated, one might by the then mayor of the said city be joined in nomination for the office of mayor of, &c. with such other freeman being an inhabitant of the said city who had been put in nomination for the said office of mayor, &c. at the then last preceding election of mayor of the said city, and had not been elected mayor thereof, or had been elected to be put in nomination for the office of mayor of, &c. as aforesaid, and after such freemen so withdrawing had agreed in nominating two such freemen inhabitants as aforesaid, one of whom to be joined in nomination as aforesaid, they have returned, and have used and been accustomed to return on same day to said assembly of, &c. and being so returned have then and there, and have been used and accustomed then and there to present to the then mayor of, &c. then present in the same assembly, the names of such freemen in writing by them so agreed to be nominated as aforesaid, to the end that of those two persons so nominated the said then mayor might join one in nomination for the office of mayor of, &c. together with such freemen who had been put in nomination for the office of mayor of, &c. at the then last preceding election of mayor of, &c. or had been elected as aforesaid, and the then mayor for the time being hath thereupon then
and

QUO WARRANTO.

a freeman of the bench in manner and form as the said J. S. hath above in his said plea alledged; and this the said coroner, &c. prays may be enquired of, &c.: And the said coroner, &c. further says, that the mayor of the said city did not then and there put in nomination the said J. S. together with the said J. W. the son, at the said assembly, that of those two persons one of them might be elected by the mayor, bailiffs, and commonalty of the said city to be mayor of the said city in manner and form as the said J. S. hath above in his said plea alledged; and this the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further says, that the said J. S. then and there had not a majority of votes or voices of the mayor, bailiffs, and commonalty of the said city at the said assembly in the said plea mentioned, in manner and form as the said J. S. hath above in his said plea alledged; and this also the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further says, that the said J. S. was not duly elected mayor of the said city to execute the said office on, &c. and for one year then next ensuing, in manner and form as the said J. S. hath above in his said plea alledged; and this also the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further says, that the said J. S. did not take his corporal oath upon the holy, &c. before, &c. then and there assembled, well and faithfully to execute and exercise the said office of mayor of the said city, and all other oaths in that behalf requisite, and usually administered and taken in manner and form as the said J. S. hath above in his said plea alledged; and this the said coroner, &c. prays may be enquired of by the country: And the said coroner, &c. further saith, at the time of the said supposed swearing of the said J. S. before, &c. and the next predecessor of the said J. S. he the said, &c. was not mayor of the said city, nor next predecessor of the said J. S. in manner and form as the said J. S. hath above in his said plea alledged; and this the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further saith, that on, &c. and from thence until, &c. he the said J. S. was not mayor of the said city in manner and form as in the said plea is above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. S. doth so likewise.

Record of proceedings in
warrants. Information.

HAMPSHIRE, to wit. Be it remembered that J. B. esquire, coroner, &c. in the court, &c. before, &c. who for, &c. in his proper person came here into the court of, &c. at W. in the term of Saint Hilary, in the tenth year of George the Third, on, &c. and for our, &c. at the relation of A. D. of, &c. according to the form, &c. gave the court here to understand and be informed, that the city of W. in the county of S. (set out the whole of the information in the past tense.)

Plea.

And afterwards, i. e. upon, &c. before, &c. at, &c. came the said J. S. by A. B. his attorney, and having heard the said information read, he complains. (Here set out the plea as information.)

And

BILL OF EXCEPTIONS.

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And the said J. B. esquire, coroner, &c. who for, &c. being then present here in court, and having heard the plea of the said J. S. (Here set out the replication as the information and plea.) Replication.

Which said several issues in manner aforesaid respectively joined between the said J. B. esquire, for, &c. and the said J. S. afterwards, at the assizes held at the castle of W. in and for the county aforesaid, before, &c. one of the justices of our, &c. and A. B. one other of the justices of our, &c. assigned to hold the assizes for the said county of Southampton, according to the form of the statute, &c. on, &c. came on to be tried, at which day before the said justices came, as well the said J. B. esquire, coroner, &c. in his own proper person, as the said J. S. by his attorney aforesaid, and the jurors of the jury aforesaid, whereof mention is within made, being called, likewise come, and are sworn to try the said several issues in manner aforesaid respectively joined, and thereupon to maintain the said issue fifteenthly above joined, to wit, that the said Charles duke of B. was mayor of the said city at the said time in the said plea in that behalf mentioned, the said J. S. gave in evidence to the jury so impannelled and sworn, on, &c. an assembly of the mayor, bailiffs, and commonalty of the said city was in due form of law held at, &c. for the nomination and election of a mayor of the said city, and that the said Charles duke of B. was of the same assembly in due manner nominated and elected mayor of the said city by the then mayor, bailiffs, and commonalty of the said city, according to the usage and custom in the said plea mentioned, and afterwards on the same day and year last above-mentioned, at, &c. in due form of law took his corporal oath before the then mayor, the next predecessor, and then recorder, and commonalty of the said city, faithfully to execute and exercise the said office of mayor of the said city, and further that the said Charles duke of B. from, &c. until, &c. and upon, &c. continued to act, and did act as mayor of the said city, and was the only acting mayor of the said city, and that no other person during all or any part of that time claimed, or pretended to be, or acted as mayor of the said city; and that the said Charles duke of B. continued in full life for years after such his election to be mayor of the said city, to wit, until or upon, &c.; and that his right or title to the office of a mayor during the time that he continued to act as mayor as aforesaid never was impeached or called in question during the life-time of him the said, &c.; and that the said, &c. on, &c. presided and acted as mayor of the said city at the said assembly in the said plea mentioned, at which the said J. S. took his corporal oath aforesaid faithfully to execute and exercise the office of mayor of the said city; and thereupon the said J. B. esquire, coroner, &c. to prove that the said Charles duke, &c. was not mayor of the said city at the said time in the said plea in that behalf mentioned, alledged, that by the custom of the said city no person could or ought to be elected mayor of the said city, unless at the time of such election he was an inhabitant of the said city; and that the said Charles Bill of exceptions to evidence.

duke of B. at the time of his election to be mayor of the said city was not an inhabitant of the said city; whereupon the counsel on the part of the said J. S. interposed and insisted that the said evidence so offered to be given by the said J. B. esquire, &c. to the jurors aforesaid was not good or admissible in law to invalidate the title of the said J. S. and prayed the justices aforesaid to inform the jurors aforesaid that the said evidence was not good or admissible in law upon the issue aforesaid, and that the issue aforesaid fifteenthly above joined might be found for the said J. S.; but the said justices affirmed, that the said evidence so offered to be given by the said J. B. esquire, coroner, &c. was good and admissible in law; and thereupon the said J. B. esquire, gave in evidence, and proved to the jury aforesaid that the said Charles duke of B. at the time of his election to be mayor of the said city was not an inhabitant of the said city: And the said justices by their direction to the jury aforesaid according to their opinion left the consideration thereof to the jurors aforesaid; and the jurors aforesaid gave their verdict that the said Charles duke of B. was not mayor of, &c. in manner and form in the said plea alledged: Whereupon the counsel of the said J. S. conceiving that by the law of the land the matter aforesaid so as aforesaid given in evidence to, &c. by the said J. B. for our, &c. on the issue aforesaid fifteenthly above joined was not admissible in law to invalidate the right and title of the said J. S. or to the issue fifteenthly above joined made their exceptions to the said opinion of the said justices, and for that the matters aforesaid do not appear by the record of the verdict aforesaid; the counsel on the behalf of the said J. S. prayed that the said justices would set their hands and seals to this bill of exceptions, containing the several matters so proved and given in evidence as aforesaid, according to the form of the statute, &c.; and thereupon the said set his hand and seal thereto, according to the form of, &c. at the castle of W. aforesaid, the day of, &c.

F. BULLER.

Information *quo*
warranto. De-
tendant usurps
the office of
freeman in the
city of W.

REX
against

SIR H. PAWLETT, &c. } HAMPSHIRE, to wit. Be it remem-
bered that J. B. esquire, coroner, &c.
who for, &c. in his own proper person
cometh here into the court of, &c. at W. on, &c. and for our,
&c. at the relation of A. B. of, &c. according to the form, &c.
giveth the court here to understand and be informed, that the
city of W. in the county of S. is an ancient city, and that the
mayor, bailiffs, and commonalty of, &c. now are, and for the
space of ten years now last past and upwards have been and are
one body corporate and politic in deed, fact, and name, by the
name of, &c. that is to say, at, &c. and that the office of a free-
man of the said city for and during the whole time aforesaid hath
been and still is a public office of great trust and pre-eminence
within the same city, touching the rule and government of the
said

saïd city, and the administration of public justice within the same city, *i. e.* the city of W. aforesaid, in the county of S. aforesaid, and that sir H. P. &c. upon, &c. at, &c. did use and exercise, and from thence continually afterwards until the time of exhibiting this information did there use and exercise, and still doth there use and exercise, without any legal warrant, &c. the office of a freeman of the saïd city, and for and during the whole time last above-mentioned hath there claimed, and still doth there claim, without any legal, &c. to be one of the freemen of the saïd city, and to have, use, and enjoy all the liberties, &c. to the office of one of the freemen of the saïd city belonging and appertaining, which saïd office, liberties, &c. he the saïd sir H. P. for and during the whole time last above-mentioned, upon, &c. without any legal warrant, &c. did usurp, and still doth usurp, *i. e.* at, &c. in contempt of our, &c. and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the saïd coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the saïd, &c. in this behalf to make him answer to our, &c. and shew by what authority he claimeth to have and enjoy the office, liberties, &c. as aforesaid.

And now, *i. e.* on, &c. before our, &c. cometh the saïd, &c. by A. B. his attorney, and having heard the saïd information read, he complains that under colour of the premises in the saïd information contained he is greatly vexed and troubled, and this by no means justly, because protesting that the saïd information and the matters therein contained are insufficient in law, and that he need not, nor is he bound by the law of the land to answer thereto; yet for plea in this behalf he saith, that our saïd, &c. ought not to impeach or to implead him the saïd sir, &c. by reason of the premises in the saïd information above specified, because he saith, that true it is that the saïd city of W. in, &c. is an ancient city, and that the mayor, bailiffs, and commonalty of the saïd city now are, and for the space of years now last past and upwards have been and are one body politic and corporate in deed, fact, and name, by the name of, &c. and that within the saïd city for and during the whole time aforesaid there have been and now are an indefinite number of freemen of the saïd city, and that the office of a freeman of the saïd city for and during all the time aforesaid hath been and still is a public office of great trust and pre-eminence within the saïd city, touching the rule and government of the saïd city, and the administration of public justice within the same city, as by the same information is above supposed: And the saïd sir H. further saith, that the citizens and inhabitants of the saïd city of W. from time whereof, &c. until, &c. have been one body corporate and politic by various names of incorporation, having in the same before that time a mayor, or two bailiffs, and other officers, for the better government thereof; and that the saïd lady Elizabeth, late queen of England, by her letters patent sealed under her great seal of
K 3
England,

England, bearing date at Westminster, the twenty-third of January, in the thirtieth year of her reign, of her certain special grace, certain knowledge, and mere motion, by the said letters patent for herself, her heirs, and successors, willed, ordained, constituted, granted, and declared that the city of W. aforesaid from thenceforth for ever should be and remain a free city of itself, by the name of the mayor, bailiffs, and commonalty of the city of W. and them by the name of mayor, bailiffs, and commonalty of the city of W. the said late queen by her said letters patent for herself, her heirs, and successors, really and fully erected, made, ordained, and created one body corporate and politic, and that by the same name they should have perpetual succession: And the said late queen further willed, and by the said letters patent for herself, her heirs, and successors granted that from thenceforth for ever there might and should be in the city of W. aforesaid, a mayor and recorder, six aldermen, two bailiffs, two coroners, and two constables of the more ancient, principal, and better sort, and more honest of the citizens and inhabitants of the said city; and that there should be twenty-four men of the better, more discreet, and more honest of the citizens and inhabitants of the said city assistants to the mayor of the said city for the time being, who should be called the twenty-four: And the said late queen by her said letters patent named, assigned, and constituted her beloved E. C. the then mayor of the said city of W. to be the then modern mayor of the same city, and that he should remain and continue in the office of mayor of the same city, until, &c. and until the same day until another should be elected, preferred, and sworn into that office according to the ordinances, statutes, and ancient customs of the city aforesaid, if the said E. should so long live; and the said late queen by her said letters patent assigned, named, ordained, constituted, created, and declared her beloved and faithful subject J. F. the then recorder of the said city of W. to be and continue recorder of the same city during his life, to have, enjoy, and exercise the said office of recorder of the city aforesaid, and also to do and execute all and all manner of things which in anywise did belong or appertain to the office of recorder during his life by himself, or by his sufficient deputy, who should be called the town clerk of the same city; and also W. B. &c. &c. citizens and inhabitants of the said city of W. to be the then modern aldermen of the said city during their natural lives if they should so long behave themselves well in the said office: And also the said late queen by the said letters patent did nominate, ordain, and constitute her beloved subjects J. W. &c. &c. citizens and inhabitants of the said city of W. to be the first and modern twenty-four assistants to the said mayor as long as they should behave themselves well in that office, as by the said letters patent inrolled and remaining of record in, &c. reference being thereunto had, it doth more fully amongst other things appear; which said letters patent soon after the making the same, *i. e.* on the twenty-third of January, in the thirtieth, &c. the then mayor, bailiffs, and

and commonalty of, &c. then and there accepted and assented thereunto, to wit, at, &c.: And the said H. further says, that after the making and granting of the said letters patent, and acceptance of the same as aforesaid, *i. e.* on, &c. at, &c. the then mayor, bailiffs, and commonalty of the said city of W. upon a public summons having been made thereof by the mayor of the said city, met and assembled themselves together in the town-hall of the said city, to treat and consult of and concerning the business of the said city, and of and concerning the laws, statutes, constitutions, and ordinances to be made, constituted, ordained, and established for the good rule and government of the said city, and the then said mayor, bailiffs, and commonalty of the said city, being then and there met together and assembled for the purposes aforesaid, did then and there for the better rule and government of the said city make, constitute, ordain, and establish a certain law or ordinance in writing called a bye-law, by which said bye-law reciting, **Bye-law.** that whereas great differences had been made amongst the members of the said corporation chiefly occasioned by some then late mayors and aldermen making a numerous company of honorary freemen without an assembly, notwithstanding such proceedings had oftentimes been presented as irregular of the said city; for preventing any future differences about the making and admitting of persons to be free of the said city of W. or of the guild of merchants of the said city, or of the twenty-four of the bench, it was ordained, established, and enacted by the mayor, bailiffs, and commonalty of the city of W. aforesaid in that assembly assembled, that from and after the said then fourteenth of December 1705, no person or persons of what degree soever should be made, admitted, and sworn a freeman of the said city free of the guild of merchants of the said city, or of the twenty-four to be elected to the bench, without the precedent, assent, and consent of an assembly regularly and duly warned according to the custom and usage of the said city: And it was also by the said bye-law further ordained, established, and enacted by and at the said assembly, that if any person whatsoever should at any time thereafter be made, admitted, or sworn a freeman of the said city, free of the guild of merchants of the said city, or of the twenty-four to be called to the bench, otherwise than according to the said ordinances, such making, admission, or swearing should be and was thereby declared to be null and void, and such person or persons so made, admitted, or sworn should not have any vote, privilege, or power as a freeman of the said city, or as a freeman of the guild of merchants of the said city, or as one of the twenty-four of the bench; to which said ordinance or bye-law the said mayor, bailiffs, and commonalty ever since the making thereof hitherto have conformed themselves; *i. e.* at, &c.: And the said sir H. further saith, that ever since the making the said bye-law the usage of nominating, electing, and constituting freemen of the said city hath been as followeth, *i. e.* that the mayor of the said city for the time being, from time to time, when and as often as it hath seemed meet and convenient to him, **Mode of election under the bye-law.** bath

hath held an assembly of himself, and of the aldermen of the said city for the time being, and of such of the freemen of the said city who had served the office of mayor of the said city, commonly called for the time being, or such of them the aldermen and such freemen who had served the office of mayor, commonly called aldermen for the time being, as would be present at the council chamber of the Guildhall of the said city, within the same city, for the nomination of a freeman or freemen of the said city, at which said assembly so held as aforesaid, for the purpose aforesaid, the mayor of the said city for the time being hath proposed, and hath used to propose to the then aldermen of the said city for the time being, and such freemen commonly called aldermen, who have been present at such assembly, such person or persons as he hath thought proper to be elected a freeman or freemen of the said city, and such person or persons so proposed by such mayor who have or hath been approved of by the then aldermen of the said city, and such freemen commonly called aldermen, then present at, &c. and by a majority of them hath and have been proposed by the mayor of the said city for the time being, at the then next general assembly of the mayor, bailiffs, and commonalty of the said city, in order for the electing and admitting of such person or persons to be a freeman or freemen of the said city; and that the mayor, bailiffs, and commonalty of the said city so assembled for the time being have given and used to give their votes at such assembly for the election of such person or persons so proposed to be a freeman or freemen of the said city as aforesaid; and such person and persons proposed as aforesaid, and who have had or hath had a majority of votes of the then mayor, bailiffs, and commonalty of the said city so assembled, hath been, and have been, and ever since the making of the said bye-law have used to be a freeman or freemen of the said city, and hath and have taken, and hath and have used to take the oath of office of a freeman of the said city, to wit, at, &c.: And the said sir H. further saith, that an assembly of the then mayor, aldermen, and such of the freemen of the said city who had served the office of mayor of the said city, commonly called aldermen, was held at the council chamber of the Guildhall of the said city, within, &c. on, &c. for the nomination of freemen of the said city, at which said city J. D. esquire, the then and now mayor of the said city did then and there name and propose him the said sir H. to be elected a freeman of the said city, which proposal of the said sir H. to be elected a freeman of the said city was then and there agreed to by the major part of the aldermen aforesaid, and such freemen commonly called aldermen, there present at the said assembly: And the said sir H. further saith, that being so named, proposed, and agreed to as aforesaid, he the said sir H. afterwards at the next general assembly of the mayor, bailiffs, and commonalty of the city aforesaid, held within the same city, i. e. at the general assembly of the mayor, bailiffs, and commonalty of the said city, held on, &c. at, &c. the said J. D. the then and now
mayor

mayor of, &c. did then and there propose the said sir H. who had been so as aforesaid approved of, in order that the said sir H. might be elected by the mayor, bailiffs, and commonalty to be a freeman of the said city: And the said sir H. further saith, that after the said mayor had so proposed the said sir H. at, &c. for the purpose aforesaid, the said sir H. was then and there, to wit, on, &c. at, &c. by the mayor, bailiffs, and commonalty of the said city, duly elected and chosen one of the freemen of the said city: And the said sir H. further saith, that after he had been so elected a freeman of the said city as aforesaid, and before that he was admitted to execute or exercise the said office of a freeman of the city, and before that he did take upon himself to execute or exercise the said office, to wit, the same day and year last above-mentioned, at, &c. he the said sir H. took his corporal oath, upon the Holy Evangelists, before the then mayor and freemen commonly called aldermen, and the bailiffs and commonalty of the said city, or such of them as were then and there present, well and faithfully to execute and exercise the office of a freeman of the said city, and all other oaths in that behalf usually administered and taken; and thereupon he the said H. was then and there admitted into the said office of a freeman of the said city, and then and there took upon himself the office of one of the freemen of the said city, and by that warrant he the said sir H. on, &c. and from thenceforth to the time of exhibiting the said information aforesaid, used and exercised, and still doth there use and exercise the office of one of the freemen of the said city, and hath claimed, and still doth claim to be one of the said city, and to have, use, and enjoy all the liberties, &c. to the office of one of the freemen of the said city belonging and appertaining, as it was and is lawful for him to do; without this that the said sir H. on, &c. or at any time since usurped the said office of one of the said freemen of the said city, and the liberties, &c. upon our said, &c. in manner and form as by the said information is above supposed, all which said matters and things the said sir H. is ready to verify as the court shall award; whereupon he prayeth judgment, and that the aforesaid office, liberties, &c. by him above-claimed may be adjudged and allowed to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

<p>REX against D. LASHFORD.</p>	}	<p>HAMPSHIRE. Be it remembered that J. B. esquire, coroner, &c. in the court, &c. who for, &c. in his own proper person cometh here into the court of, &c. at, &c. upon, &c. and for, &c. at the relation of J. M. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the city of W. in the county of S. is an ancient city, and that the mayor, bailiffs, and commonalty of the said city now are, and for the space of ten years now last past and upwards have been and are one body corporate and politic in deed, fact, and name, by the name, &c. and that</p>	<p><i>Quo warranto.</i> Defendant u- surps the office of freeman of a borough.</p>
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within

within the city aforesaid, for the whole time aforesaid, there have been and now are *an indefinite number of freemen of the said city, i. e. at, &c.* and the office of a freeman of the said city for and during the whole time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of the said city, and the administration of public justice within the said city *i. e. at, &c.*; and that D. L. of, &c. on, &c. at, &c. did use and exercise, and from thence continually to the time of exhibiting this information hath there used and exercised, without any legal warrant, &c. the office of one of the freemen of the said city for and during the whole time last aforesaid, and hath there claimed, and still doth there claim, without any legal, &c. to be one of the freemen of the said city, and to have, use, and enjoy all the liberties, &c. to the office of one of the freemen of the said city belonging and appertaining, which said office, liberties, &c. he the said D. L. for and during all the time last above-mentioned, upon our, &c. without any legal, &c. hath usurped, and still doth usurp, *i. e. at, &c.* in contempt of our, &c. and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said D. L. in this behalf to make him answer to our said, &c. and to shew by what authority he claimeth to have, use, and enjoy the office, liberties, &c. aforesaid.

Pka,

that there has been an indefinite number of freemen.

And now, *i. e. upon, &c. at, &c.* cometh the said D. L. by A. B. his attorney, and having heard the said information read, he complaineth that under colour of the premises in the said information contained he is greatly vexed and troubled, and this by no means justly, because protesting that the said information and the matters therein contained are insufficient in law, and that he need not, nor is he bound by the law of the land to answer thereto; yet for plea in this behalf he saith, that our said lord, &c. ought not to impeach or implead him the said D. L. by reason of the premises in the above information above specified, because he saith, that true it is that the said city of W. in the county of S. is an ancient city, and that the mayor, bailiffs, and commonalty of the said city now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name, &c.; and that within the said city for and during the whole time aforesaid there have been and now are *an indefinite number of freemen* of the said city, and that the office of a freeman of the said city for and during the whole time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of the said city, and the administration of public justice within the same city, as by the said information is above supposed: And the said D. further saith, that the

citizens

citizens and inhabitants of, &c. from time whereof, &c. until, &c. have been a body corporate and politic by various names of incorporation, having in the same before that time a mayor, two bailiffs, and other officers, for the better rule and government thereof; and that the said lady Elizabeth by her said letters patent, sealed, &c. bearing date at, &c. on, &c. of her especial grace, certain knowledge, and mere motion, by the said letters patent for herself, her heirs, and successors, willed, ordained, constituted, granted, and declared that the city of W. aforesaid from thenceforth for ever should be and remain a free city of itself, and that the citizens and inhabitants of the said city from thenceforth for ever should be one body corporate and politic in deed, fact, and name, by the name of, &c. and them by the name of, &c. the said late queen by her said letters patent for herself, her heirs, and successors, really and fully erected, made, ordained, and created one body corporate, &c. in deed, fact, and name, and that by the same name they should have perpetual succession: And the said late queen further willed, and by the said letters patent for herself, her heirs, and successors, granted that from thenceforth for ever there might and should be in the city of W. a mayor, recorder, six aldermen, two bailiffs, two coroners, and two constables of the more ancient, principal, better sort, and more honest of the inhabitants and citizens of the said city, and that there should be twenty-four men of the better, more discreet, and more honest of the citizens of the said city assistants to the mayor of the said city for the time being, who should be called the twenty-four: And the said late queen by her said letters patent named, assigned, and constituted her beloved E. C. the then mayor of the said city of W. to be the then modern mayor of the same city, and that he should remain and continue in the office, &c. until, &c. and on the same day until another should be elected, preferred, and sworn into that office, according to the ordinances, statutes, and ancient customs of the said city, if the said E. C. should so long live: And the said late queen by her said letters patent assigned, named, ordained, &c. her beloved and faithful subject T. F. the then recorder, &c. to be and continue recorder of the same city during his life, to have, enjoy, and exercise the said office of recorder of the said city, and also to do and execute all and all manner of things which in anywise did belong or appertain to the said office of recorder during his life by himself or his sufficient deputy, who should be called the town clerk of the same city; and also W. B. &c. &c. citizens and inhabitants of the same city of W. to be the then modern aldermen of the said city during their natural lives, if they should so long behave themselves well in the said office: And also the said late queen by her said letters patent did nominate, ordain, and constitute her beloved subjects J. W. &c. &c. &c. citizens, &c. to be the first and modern twenty-four assistants to the said mayor so long as they should behave themselves well in that office, as by the said letters patent inrolled and remaining

maining of record, &c. reference being thereunto had, may more fully amongst other things appear, such said letters patent soon after the making the same, *i. e.* on, &c. the then mayor, bailiffs, and commonalty of the said city of W. ; and also all and singular the then citizens, freemen, and inhabitants of the city aforesaid then and there accepted and assented thereunto, to wit, at, &c.: And the said D. further saith, that after the making and granting the said letters patent, and acceptance of the same as aforesaid, *i. e.* on, &c. at, &c. upon a public summons having been made thereof by the then mayor of the said assembly, met and assembled themselves together in, &c. to treat and consult of and concerning the laws, statutes, constitutions, and ordinances to be made, constituted, ordained, and established for the good rule and government of the said city ; and the said then mayor, bailiffs, and commonalty of the city aforesaid being then and there met together and assembled for the purpose aforesaid, did then and there for the better rule and government of the said city make, constitute, ordain, and establish a certain law or ordinance in writing called a bye-law, by which said bye-law reciting, that whereas great differences had been lately amongst the members of the said corporation, chiefly occasioned by some then late mayors and aldermen making a numerous company of honorary freemen without an assembly, notwithstanding suits and proceedings had oftentimes been presented as irregular by several grand juries of the said city, for the preventing any further differences about the making and admitting persons to be free of the said city of W. or of the guild, &c. or of the twenty-four, &c. it was ordained, &c. by the mayor, bailiffs, and commonalty of, &c. in that assembly assembled, that from and after the said then, &c. no person or persons of what degree soever should be made, admitted, or sworn a freeman of the said city, or free of the guild, &c. or of the twenty-four, &c. without the precedent, assent, and consent of an assembly duly and regularly warned according to the usual custom of the said city ; and it was also by the said bye-law further ordained, established, and enacted by and at the said assembly, that any person whatsoever should at any time or times thereafter be made, admitted, or sworn a freeman of the said city, or free of the guild, &c. or of the twenty-four, or to be called to the bench otherwise than according to the said ordinance, such making, admission, and swearing should be and was thereby declared to be null and void, and such person or persons so made, admitted, and sworn should not have any vote or privilege or power as a freeman of, &c. or as a freeman of the guild, &c. or as one of the twenty-four, &c. ; to which said ordinance or bye-law the said mayor, bailiffs, and commonalty ever since the making thereof hitherto hath conformed themselves, *i. e.* at, &c. : And the said D. further saith, that ever since the making the said bye-law the usage of nominating, electing, and constituting freemen of the said city hath been as followeth, *i. e.* that the mayor, &c. &c. hath holden

Bye law.

an assembly of, &c. as would be present at, &c. for the nomination of a freeman or freemen of the said city; at which said assembly so held as aforesaid, for the purpose aforesaid, the mayor of the said city for the time being hath proposed, and hath used to propose to the then aldermen of, &c. such person or persons as he hath thought fit and proper to be elected a freeman or freemen of the said city, and such person or persons so proposed by such mayor as aforesaid, who hath or have been approved of by the then mayor of the said city, &c. or by a majority of them hath and have been proposed by the mayor of, &c. for the time being, at the then next general assembly of the mayor, bailiffs, and commonalty of the said city, in order for the electing and admitting of such person or persons to be a freeman or freemen of the said city; and that the mayor, &c. so assembled for the time being, have given and used to give their votes at such assembly for the election of such person or persons so proposed to be a freeman or freemen of the said city as aforesaid, who hath had or have had a majority of votes of the then mayor, bailiffs, and commonalty of the said city, hath been and have been, and ever since the making of the said bye-law have used to be a freeman or freemen of, &c. and hath and have used to take the oath of office of a freeman of the said city, to wit, at, &c. : And the said D. further saith, that an assembly of, &c. was held at the council chamber of the Guildhall of the said city, on, &c. for the nomination of freemen of the said city, at which said assembly W. W. the then mayor of, &c. did then and there name and propose him the said D. L. to be elected a freeman of the said city; which proposal of, &c. to be elected a freeman of, &c. was then and there agreed to by the major part of the then aldermen, &c. : And the said D. further saith, that being so named, proposed, and agreed to as aforesaid, he the said D. afterwards at the then next general assembly of, &c. held within, &c. i. e. at, &c. held on, &c. at, &c. the said W. the then mayor of the said city, did then and there propose the said D. who had been so as aforesaid approved of by, &c. to be a freeman of, &c. : And the said D. further saith, that after the mayor had so proposed the said D. at the said general assembly for the purpose aforesaid, the said D. was then and there, to wit, on, &c. at, &c. by, &c. duly elected and chosen one of the said freemen of the said city: And the said D. further saith, that after he had been so elected a freeman of the said city as aforesaid, and before that he was admitted to execute or exercise the said office as a freeman of, &c. and before that he did take upon himself to execute and exercise the said office, to wit, the same day, &c. at, &c. he the said D. took his corporal oath upon the Holy Evangelists; before, &c. well and faithfully to execute and exercise the office of a freeman of the said city, and all other oaths in that behalf usually administered and taken; and thereupon the said D. was then and there admitted into the said office of a freeman of, &c. and then and there took upon himself the office of one of the freemen of, &c. ; and by that warrant be the said D. on, &c. and from thenceforth to the time of exhibiting

hibiting the said information used and exercised, and still doth use and exercise the office, &c. and hath claimed, and still doth claim to be, &c. and to have, use, and enjoy all the liberties, &c. to the office, &c. belonging and appertaining, as it was and is lawful for him to do; without this that the said D. L. on, &c. or any time since hath usurped the said office of, &c. and the liberties, &c. thereunto belonging and appertaining, upon our, &c. in manner and form as by the said information is above supposed; all and singular which said matters and things the said D. L. is ready to verify as the court shall award; whereupon he prayeth judgment, and that the aforesaid office, privileges, &c. by him above claimed may be adjudged and allowed to him, and that he may be dismissed and discharged by the court of and from the premises above charged upon him.

Replication traverses the mode of election.

And the said J. B. esquire, coroner, &c. being now present here in court, and having heard the said plea of him the said D. L. by him above pleaded in bar, in manner and form aforesaid, for our, &c. saith, that for any thing above alledged in the said plea by him the said D. L. our said, &c. ought not to be barred or precluded from having his aforesaid information against him the said D. L. because protesting that the said plea of him the said D. L. by him above pleaded in manner and form aforesaid, and the matters therein contained are altogether insufficient in law; nevertheless for replication in this behalf the said coroner, &c. saith, that it is very true that the said late queen by the said letters patent in the said plea mentioned, after having recited that the said city of W. in the county of S. was an ancient city, having had in it from time whereof, &c. for the better rule and government thereof, a mayor, six aldermen, &c. &c. by which mayor, &c. &c. the said city of W. and the citizens and inhabitants thereof time out of mind had been governed, did make such grant to the said mayor, bailiffs, and commonalty of, &c. as in the said plea is mentioned and set forth: And the said coroner, &c. further saith, that the said late queen did by her said letters patent for herself, her heirs, and successors, further will and grant to the said mayor, bailiffs, and commonalty of, &c. and their successors, that whensoever and as often as any alderman of the said city should die, or from such his office should depart, or should for any cause whatsoever be amoved or displaced from the office of alderman of the same city, that then and so often the mayor and recorder of the city, or the deputy of the recorder for the time being, and the rest of the aldermen of the said city then living and remaining, and the said assistants called the twenty-four, or the major part of them, should and might from time to time as often as need should be and the case require, chuse, make, and create one or more other or others of the honest and more circumspect citizens of, &c. for alderman or aldermen of the same city in the place or stead of him or them so departed, amoved, or displaced, as by the said letters patent, relation

relation being thereunto had, it doth amongst other things therein mentioned and contained more fully and at large appear: And the said coroner, &c. further saith, that ever since the making the said bye-law in the said plea mentioned and set forth, the usage of nominating, electing, and constituting freemen of the said city hath not been in the manner in the said plea mentioned, for that the mayor of the said city for the time being, from time to time when and as often as it hath seemed meet and convenient to him, hath not held an assembly of himself and of the aldermen of the said city for the time being and of such of the freemen of the said city who had served, &c. as would be present at, &c. for the nomination of a freeman or freemen of the said city, nor hath the mayor of the said city for the time being at any such assembly supposed, by the said plea to be so held for the purpose therein mentioned, proposed, nor hath he used to propose to the then aldermen of, &c. and such of the freemen, commonly called aldermen, &c. who are supposed by the said plea to have been present at such supposed assembly, such person or persons as he has thought fit and proper to be elected a freeman or freemen of the said city, nor hath nor have such person or persons supposed by the said plea to be so proposed by, &c. who by the said plea are supposed to have been approved of by the then aldermen of the said city, &c. by the said plea supposed to be then present at, &c. or by a majority of them have been proposed by, &c. at, &c. in order for the electing and admitting such person or persons to be a freeman or freemen of, &c. nor have the mayor, &c. so assembled for the time being for the election of such person or persons supposed by the said plea to be proposed to be a freeman or freemen of, &c. nor hath or have such person or persons supposed by the said plea to be so proposed as aforesaid, who are supposed by the said plea to have had a majority of votes of, &c. so assembled, been nor ever since the making the said bye-law have used to be a freeman or freemen of the said city, nor hath or have taken, nor hath or have used to take the oath of office of a freeman of, &c. to wit, at, &c. in manner and form as the said D. L. hath above alledged for himself by pleading; and this the said coroner prayeth may be enquired of by the country, and the said D. L. doth the like: And the said coroner, &c. further saith, that an assembly of the mayor and aldermen of, &c. and such of the freemen of, &c. commonly called, &c. was not held at, &c. for the nominating of freemen of, &c. in manner and form as he the said D. L. hath also above alledged for himself by pleading; and this the said coroner, &c. prays may be also enquired into by the country, and the said D. L. doth the like: And the said coroner, &c. further saith, that the said W. W. the then mayor of the said city, did not name or propose him the said D. L. to be elected a freeman of the said city, nor was any such proposal of the said D. L. to be elected a freeman of the said city agreed to by the major part of the aldermen and such of the freemen, commonly called

hibiting the said information used and exercised, and still doth use and exercise the office, &c. and hath claimed, and still doth claim to be, &c. and to have, use, and enjoy all the liberties, &c. to the office, &c. belonging and appertaining, as it was and is lawful for him to do; without this that the said D. L. on, &c. or any time since hath usurped the said office of, &c. and the liberties, &c. thereunto belonging and appertaining, upon our, &c. in manner and form as by the said information is above supposed; all and singular which said matters and things the said D. L. is ready to verify as the court shall award; whereupon he prayeth judgment, and that the aforesaid office, privileges, &c. by him above claimed may be adjudged and allowed to him, and that he may be dismissed and discharged by the court of and from the premises above charged upon him.

Replication traverses the mode of election.

And the said J. B. esquire, coroner, &c. being now present here in court, and having heard the said plea of him the said D. L. by him above pleaded in bar, in manner and form aforesaid, for our, &c. faith, that for any thing above alledged in the said plea by him the said D. L. our said, &c. ought not to be barred or precluded from having his aforesaid information against him the said D. L. because protesting that the said plea of him the said D. L. by him above pleaded in manner and form aforesaid, and the matters therein contained are altogether insufficient in law; nevertheless for replication in this behalf the said coroner, &c. faith, that it is very true that the said late queen by the said letters patent in the said plea mentioned, after having recited that the said city of W. in the county of S. was an ancient city, having had in it from time whereof, &c. for the better rule and government thereof, a mayor, six aldermen, &c. &c. by which mayor, &c. &c. the said city of W. and the citizens and inhabitants thereof time out of mind had been governed, did make such grant to the said mayor, bailiffs, and commonalty of, &c. as in the said plea is mentioned and set forth: And the said coroner, &c. further faith, that the said late queen did by her said letters patent for herself, her heirs, and successors, further will and grant to the said mayor, bailiffs, and commonalty of, &c. and their successors, that whensoever and as often as any alderman of the said city should die, or from such his office should depart, or should for any cause whatsoever be amoved or displaced from the office of alderman of the same city, that then and so often the mayor and recorder of the city, or the deputy of the recorder for the time being, and the rest of the aldermen of the said city then living and remaining, and the said assistants called the twenty-four, or the major part of them, should and might from time to time as often as need should be and the case require, chuse, make, and create one or more other or others of the honest and more circumspect citizens of, &c. for alderman or aldermen of the same city in the place or stead of him or them so departed, amoved, or displaced, as by the said letters patent, relation

relation being thereunto had, it doth amongst other things therein mentioned and contained more fully and at large appear: And the said coroner, &c. further saith, that ever since the making the said bye-law in the said plea mentioned and set forth, the usage of nominating, electing, and constituting freemen of the said city hath not been in the manner in the said plea mentioned, for that the mayor of the said city for the time being, from time to time when and as often as it hath seemed meet and convenient to him, hath not held an assembly of himself and of the aldermen of the said city for the time being and of such of the freemen of the said city who had served, &c. as would be present at, &c. for the nomination of a freeman or freemen of the said city, nor hath the mayor of the said city for the time being at any such assembly supposed, by the said plea to be so held for the purpose therein mentioned, proposed, nor hath he used to propose to the then aldermen of, &c. and such of the freemen, commonly called aldermen, &c. who are supposed by the said plea to have been present at such supposed assembly, such person or persons as he has thought fit and proper to be elected a freeman or freemen of the said city, nor hath nor have such person or persons supposed by the said plea to be so proposed by, &c. who by the said plea are supposed to have been approved of by the then aldermen of the said city, &c. by the said plea supposed to be then present at, &c. or by a majority of them have been proposed by, &c. at, &c. in order for the electing and admitting such person or persons to be a freeman or freemen of, &c. nor have the mayor, &c. so assembled for the time being for the election of such person or persons supposed by the said plea to be proposed to be a freeman or freemen of, &c. nor hath or have such person or persons supposed by the said plea to be so proposed as aforesaid, who are supposed by the said plea to have had a majority of votes of, &c. so assembled, been nor ever since the making the said bye-law have used to be a freeman or freemen of the said city, nor hath or have taken, nor hath or have used to take the oath of office of a freeman of, &c. to wit, at, &c. in manner and form as the said D. L. hath above alledged for himself by pleading; and this the said coroner prayeth may be enquired of by the country, and the said D. L. doth the like: And the said coroner, &c. further saith, that an assembly of the mayor and aldermen of, &c. and such of the freemen of, &c. commonly called, &c. was not held at, &c. for the nominating of freemen of, &c. in manner and form as he the said D. L. hath also above alledged for himself by pleading; and this the said coroner, &c. prays may be also enquired into by the country, and the said D. L. doth the like: And the said coroner, &c. further saith, that the said W. W. the then mayor of the said city, did not name or propose him the said D. L. to be elected a freeman of the said city, nor was any such proposal of the said D. L. to be elected a freeman of the said city agreed to by the major part of the aldermen and such of the freemen, commonly called

called aldermen, in manner and form as he the said D. L. hath also above alledged for himself by pleading ; and this the said coroner, &c. prayeth also may be enquired into by the country, and the said D. L. doth the like : And the said coroner, &c. further saith, that the said W. W. did not propose the said D. L. in order that the said D. L. might be elected by the mayor, bailiffs, and commonalty to be a freeman of, &c. in manner and form as the said D. L. hath also above alledged for himself by pleading ; and this the said coroner, &c. prayeth may be also enquired into by the country, and the said D. L. doth the like : And the said coroner, &c. further saith, that the said D. L. was not by the mayor, bailiffs, and commonalty of the said city duly elected and chosen one of the freemen of the said city in manner and form as he the said D. L. hath also above alledged for himself by pleading ; and this the said coroner, &c. prayeth may also be enquired into by the country, and the said D. L. doth so likewise : And the said coroner, &c. further saith, that he the said D. L. did not take his corporal oath upon, &c. before, &c. well and faithfully to execute, &c. and all other oaths in that behalf usually administered and taken in manner and form as the said D. L. hath also above alledged for himself by pleading ; and this the said coroner, &c. prayeth may also be enquired into by the country, and the said D. L. doth the like : And the said coroner, &c. further saith, he the said D. L. was not admitted into the said office of a freeman of, &c. in manner and form as he the said D. L. hath above also in pleading for himself alledged ; and this the said coroner, &c. prays may be also enquired, &c. and the said D. L. doth the like : And the said coroner, &c. further saith, that within the said city there now is, and for many years before the making the said bye-law in the said plea mentioned there had been, and ever since the making the said bye-law to this time there hath been a certain ancient usage within the said city, to wit, that whenever it hath been thought meet and convenient to nominate, elect, and constitute any person or persons to be a freeman or freemen of the said city, and it hath so happened that there have not been at that time of the aldermen of the said city and such of the freemen of, &c. who had served the office of mayor of, &c. commonly called aldermen, six in number, living and being, that then before any assembly of the mayor and aldermen of, &c. and such of the freemen of, &c. who had or have served the office of mayor of, &c. commonly called aldermen for the time being, would be present, hath been or can be held for the nomination or proposal of any person or persons to be a freeman or freemen of the said city, the number of such aldermen and freemen, commonly called aldermen, hath been first filled up and completed by the election of one or more other alderman or aldermen of, &c. so as the number of aldermen of, &c. and of the freemen, commonly called aldermen, then living, who may be present at such assembly for the purpose aforesaid, may amount to six at the least,

least, exclusive of the mayor of the said city for the time being, and that no assembly whatsoever can, according to the usage of the said city, be held within the said city for nominating or proposing of a person or persons to be a freeman or freemen of the said city when there have been a fewer number than six of the aldermen or freemen, commonly called aldermen of, &c. in being: And the said coroner, &c. further saith, that at the time of holding the said assembly in the said plea, and for the nominating of, &c. and at the time of the said supposed proposal and nomination of the said D. L. to be a freeman of, &c. and long before and afterwards the number of aldermen and freemen of the said city, commonly called aldermen then living, did not amount to six, exclusive of the mayor of the said city, all and singular which said matters and things he the said coroner, &c. is ready to verify and prove as the court shall award; wherefore he prays judgment, &c. and that he the said D. L. may be convicted of the premises above charged upon him, and that he may be absolutely forejudged and excluded of and from the said office, &c. so by him claimed in manner aforesaid, &c.

And the said D. L. as to the said replication of the said coroner, &c. last above pleaded in reply, protesting that the said plea and the matter therein contained are not sufficient in law to convict him the said D. L. of the premises above charged upon him the said D. L. nor to forejudge or exclude him from his office, liberties, privileges, &c. aforesaid, to which he need not nor is he obliged by law to answer; yet for plea in this behalf he the said D. L. saith, that within the said city there is not, nor for many years before the making the said bye-law in the said plea mentioned there had been, nor ever since the making the said bye-law to this time there hath been any such usage within the said city, that whenever it hath been thought fit and convenient to nominate, elect, and constitute any person or persons to be a freeman or freemen of, &c. and it hath so happened that there have not been at that time of the aldermen of the said city, and of such of the freemen, &c. six in number, living and being, that then before any assembly of, &c. as would be present, hath been or can be held for the nomination or proposal of any person or persons to be a freeman or freemen of the said city, the number of such aldermen and freemen, commonly called aldermen, hath been first filled up and completed by the election of one or more other alderman, &c. so as the number of aldermen of, &c. and of the freemen, &c. then living, who may be present at such assembly for the purpose aforesaid, may amount to six at least, exclusive of the mayor of, &c. for the time being, in manner and form as in the said replication of the said coroner, &c. is above alledged; and of this the said D. L. puts himself upon the country.

Rejoinder takes issue on the last replication respecting the election of freemen.

PLEAS before our, &c. at, &c. Easter Term, 3. Geo. III.
Among the pleas of the king.

ROLL.

Information *quo*
warranto. De-
fendant claims
to be a capital
citizen of the
city of Carlisle.

REX
against

HODGSON.

CUMBERLAND, to wit. Be it re-
membered that J. B. esquire, coroner, &c.
who prosecutes for, &c. personally came here
into the court of, &c. at, &c. on, &c. and for our, &c. at
the relation of W. A. of, &c. according to the form of the
statute, &c. brought here into the court of, &c. then there a
certain information in the nature of a *quo warranto* against
W. H. of the city of Carlisle, in the county of C. gentleman,
which said information followeth in these words, *i. e.* Cumber-
land, to wit: Be it remembered that J. B. esquire, coroner, &c.
in the court of, &c. before, &c. who prosecutes for, &c. cometh
here into the court of, &c. at, &c. on, &c. and for our, &c. at
the relation of W. A. of, &c. according to the form of the
statute, &c. giveth the court here to understand and be informed,
that the city of C. in the county of C. now and from time im-
memorial hath been an ancient city, and that within the said
city there is, and for the space of ten years now last past
and upwards hath been, and still of right ought to be a mayor,
eleven aldermen, two bailiffs, and twenty-four capital citizens
of the same city, and *that the office* of capital citizens of the
said city for and during all the time last aforesaid hath been, and
long before was and still is a public office, and an office of great
trust and pre-eminence within the said city, touching the rule
and government of the said city, and the administration of public
justice therein, to wit, at, &c.: And that W. H. of, &c. gen-
tleman, on, &c. and from thenceforth until the time of exhibit-
ing this information at, &c. hath used and exercised and still
doth use and exercise the office of one of the capital citizens of
the said city without any legal warrant, &c. and for and during
all the time last above-mentioned hath there claimed and still
doth there claim to be one of the capital citizens of the said city,
and to have, use, and enjoy all the liberties, &c. to the office of
one of the capital citizens of the said city belonging and apper-
taining, without any legal warrant, royal, &c.; and which said
office, liberties, &c. he the said W. H. for and during all the
time aforesaid hath unlawfully usurped and still doth usurp upon,
&c. *i. e.* at, &c. in contempt of our said, &c. and his laws, to
the great damage and prejudice of his royal prerogative, and also
against the peace of our said lord the king, his crown and dig-
nity; whereupon the said coroner, &c. prayeth the consideration
of the court here in the premises, and that due process of law
may be awarded against him the said W. H. in this behalf to
make him answer to our, &c. and shew by what authority he
claimeth to have and enjoy the office, liberties, &c.; wherefore
the sheriff of the said county of Cumberland was commanded
that he should not forbear by reason of any liberty in his baili-
wick,

wick, but that he should cause him to come to answer to our said lord the king touching and concerning the premises aforesaid.

And now, that is to say, on, &c. before, &c. at W. cometh Plea, the said W. H. by his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law to compel him to answer thereto; yet for plea in this behalf the said W. H. saith, that he doth not apprehend that our, &c. will or ought further to impeach or implead him by reason of the premises in the said information contained, because he saith, that true it is that the said city of C. in, &c. now is and from time immemorial hath been an ancient city, and that within the said city there is, and for the space of ten years now last past and upwards hath been, and still of right ought to be a mayor, eleven aldermen, two bailiffs, and also twenty-four capital citizens of the same city, and that the office of capital citizen of, &c. for and during all the time last aforesaid hath been, and long before was, and still is a public office, and an office of great trust and pre-eminence within, &c. touching the rule and government of, &c. and the administration of public justice therein, as in and by the said information is above suggested; but the said W. H. further says, that the said citizens of, &c. from time whereof, &c. until the time of the granting the letters patent hereinafter mentioned were a body corporate and politic in deed and name, by various names of incorporation, and at the time of granting the said letters patent were a body corporate and politic as aforesaid, by the name of the mayor and citizens of the city of C. *i. e.* at, &c.: And the said W. H. further saith, that the lord Charles the First, late, &c. on the twenty-first day of July, in the thirteenth year of his reign, by his letters patent sealed, &c. now brought here into court, bearing date, &c. of his special grace, certain knowledge, and mere motion, did for himself, his heirs, and successors, will, ordain, constitute, and grant that the said city of C. in, &c. should for ever thereafter be a city of itself, and that the mayor and citizens of, &c. (by whatsoever name or names they or their predecessors were before incorporated) and their successors should for ever thereafter by force of the said letters patent be one body corporate and politic in deed, fact, and name, by the name of the mayor, aldermen, bailiff, and citizens of the city of C. the late king by his said letters patent did for himself, his heirs, and successors, erect, make, ordain, constitute, create, confirm, and declare one body corporate and politic in deed, fact, and name, and that they by the same name should have perpetual succession; and the said late king willed, and by his said letters patent for himself, his heirs, and successors, granted to the said mayor, aldermen,

sets out the
charter of Cha. I.

aldermen, bailiffs, and citizens of, &c. and their successors, that for ever thereafter there should be within the said city one of the aldermen thereof for the time being, who should be and should be called the mayor of, &c. and also eleven honest men besides the mayor of, &c. who should be and should be called aldermen of, &c. and likewise two other men of, &c. to be elected in the form in the said letters patent afterwards mentioned, who should be and should be called bailiffs of, &c. and also twenty-four other men to be elected in form in the said letters patent mentioned, who should be and should be called capital citizens of, &c. and should be from time to time of the common council of the said city, and aiding and assisting to the mayor, aldermen, and bailiffs of the said city for the time being, in all causes, businesses, and matters whatsoever touching or in any ways concerning the said city; and the said late king by his said letters patent for himself, his heirs, and successors, assigned, nominated, created, constituted, and made his beloved, &c. the first and then modern mayor of the said city willing that the said, &c. should continue in the said office till Monday, &c. and from thence until another of the said eleven aldermen of, &c. for the time being should be in due manner elected and sworn into that office, according to the ordinance and provision afterwards in the said letters patent mentioned and declared, if he the said, &c. should so long live, and also assigned, nominated, created, constituted, and made the said, &c. then mayor of, &c. and eleven other persons in the said letters patent named, the first and then modern aldermen of, &c. to continue in the said offices during their natural lives, unless they or any of them in the mean time for bad government or any reasonable cause should by the mayor, aldermen, bailiffs, and capital citizens of the said city for the time being, or by the major part of them, of whom the said late king willed the said mayor of, &c. for the time being should be one, should be removed; and also assigned, nominated, created, constituted, and made two persons in the said letters patent named the first and then modern bailiffs of the said city for the time being, to continue in, &c. until, &c. and from thence until others of the citizens of the said city should be in due manner elected and sworn into the said office, according to the ordinance and provision afterwards in the said letters patent expressed and declared, if they should so long live, unless in the mean time for bad government or any reasonable cause they should be removed, as afterwards in the said letters patent limited and appointed; and also assigned, nominated, created, constituted, and made twenty-four persons in, &c. named the first and then modern capital citizens in, &c. to continue in that office during their lives, unless they or any of them for bad, &c. by the mayor, aldermen, bailiffs, and capital citizens of, &c. should be removed; and the said late king further willed, and by the said letters patent for himself, his heirs, and successors, granted to the said mayor, aldermen, &c. of, &c. and their successors, that in case any of the aldermen
of,

of, &c. for the time being should happen to die, then and so often it should be lawful for the mayor and surviving aldermen for the time being, or the major part of them, being in that behalf assembled in the Guildhall, &c. to elect others of the more discreet and honest of the citizens of the said city, in the place of such aldermen so deceased, and that he or they so elected, having taken his and their corporal oath before, &c. well and faithfully to execute that office in and by all things touching the same, should have and exercise the office of an alderman or aldermen of, &c. during his or their natural life or lives, and so often as the case should so happen; and the said late king gave and granted by his said letters patent, without any other warrant in that behalf obtained, to the mayor of, &c. for the time being, in the case so happening, full power and authority to administer to such alderman so from time to time nominated and elected, the said oath for the due execution of the said office in that behalf; and the said late king further willed, and by the said letters patent for himself, his heirs, and successors, granted to the said mayor, aldermen, bailiffs, and citizens of, &c. and their successors, that in case any of the twenty-four capital citizens of, &c. for the time being should happen to die or be removed from his place, which said twenty-four capital citizens or any of them the said late king by his said letters patent willed should be amoveable and removed for any just and reasonable cause, by the mayor and aldermen of the said city, or the major part of them for the time being, that then and so often it should be lawful for the said mayor and aldermen of, &c. or the major part of them, to assemble and gather themselves together in, &c. and there to elect and nominate another or others of the more honest and discreet citizens of the said city in the place or places of him or them of the said twenty-four capital citizens so dead or removed, to fill up the said number of twenty-four capital citizens of, &c. having first taken his corporal oath before, &c. well and faithfully to execute that place, should have and exercise the same place of a capital citizen of the said city during their natural lives, unless, &c. according to the ordinance above in the said letters patent declared; and the said late king gave by his said letters patent to the mayor and aldermen, or the major part of them for the time being, without any other warrant in that behalf to be obtained for him, his heirs, and successors, full power and authority to administer such oath to the said capital citizens so to be nominated and elected as by the said letters patent, inrolled and remaining of record in the high court of chancery of, &c. at W. among other things more fully appears, which said letters patent after the making the same, to wit, on the twenty-first day of July, in the thirteenth year of the reign of Charles the First, the then mayor, &c. accepted and assented unto, to wit, at, &c. : And the said W. H. further saith, that long afterwards, to wit, on, &c. at, &c. aforesaid, C. H. who was then and there one of the aldermen of, &c. died, whereby

Charter accepted

One of the aldermen dying, another was chosen from the capital citizens, and on that vacancy defendant was elected.

the office of one of the aldermen, &c. being vacant, and the same being and continuing so vacant afterwards, to wit, on, &c. the then mayor and the major part of the surviving aldermen of, &c. assembled in, &c. to elect an alderman of the said city in the place of the said C. H. and being so assembled, the major part of the then mayor and aldermen of, &c. did then and there elect J. C. then being then and there one of the capital citizens of, &c. an alderman of, &c. in the place of the said C. H. deceased, *i. e.* at, &c. : And the said W. H. further saith, that after the said J. C. had been elected one of the aldermen of, &c. afore said, to wit, on the same day and year last afore said, at, &c. afore said, he the said J. C. did accept the said office of an alderman of the said city, and did then and there take his corporal oath before the then mayor of, &c. well and faithfully to execute the said office of an alderman of, &c. in and by all things touching that office, and then and there became an alderman of, &c. whereby the office of one of the capital citizens of, &c. became and was vacant, and the same being and continuing so vacant the mayor and major part of the aldermen of the said city afterwards, to wit, on, &c. did assemble and gather together in, &c. to elect and nominate one of the more discreet and honest of the citizens of, &c. a capital citizen of, &c. in the place of the said J. C. ; and being so assembled and gathered together as afore said, he the said W. H. being then and there one of the more honest and discreet of the citizens of, &c. was then and there by the major part of the mayor and the aldermen of, &c. elected and nominated a capital citizen of the said city in the place of the said J. C. : And the said W. H. further saith, that after he had been so elected and nominated a capital citizen of, &c. as afore said, and before he was admitted into or took upon himself to execute the office of a capital citizen, *i. e.* on, &c. at, &c. he the said W. H. did take his corporal oath before the major part of the then mayor and aldermen of, &c. well and faithfully to execute the office of, &c. and thereupon the said W. H. afterwards, and before the first day of December, in the second year of the reign of George the Third, in the said information mentioned, to wit, on, &c. was admitted into and took upon himself to execute the place or office of, &c. *i. e.* at, &c. and by reason of the premises, he the said W. H. on, &c. and continually from thenceforth until the time of exhibiting the said information was and still is one of, &c. and by that warrant he the said W. H. for and during all the time in the said information in that behalf mentioned, at, &c. hath used and exercised and still doth there use and exercise the office of one of, &c. and during all that time hath there claimed and still doth there claim to be one of, &c. and to have, use, and enjoy all the liberties, &c. to the office of one of the, &c. belonging and appertaining, as it was and still is lawful for him to do ; without this that he the said W. H. the said office, liberties, &c. in the said information above mentioned, or any of them, hath

hath usurped, or did or doth usurp upon our, &c. in manner and form as in the said information is above alledged against him, all which said matters and things he the said W. H. is ready to verify and prove as the court shall award; whereupon he prayeth judgment, and that the office, liberties, &c. by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged on him, &c.

And the said J. B. esquire, coroner, &c. who for, &c. having heard the said plea of the said W. H. in manner and form aforesaid above pleaded in bar, says, that by reason of any thing by the said W. H. in that plea above alledged, our said, &c. ought not to be barred from having his said information against the said W. H. because he says, that the said then mayor and the major part of the surviving aldermen of the said city did not assemble in the Guildhall of, &c. to elect an alderman of, &c. in the room of the said C. H. in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. prayeth may be enquired of by the country: And the said coroner, &c. further saith, that the major part of the said then mayor and aldermen of, &c. did not elect the said J. C. an alderman of, &c. in manner and form as the said W. H. hath in and by his said plea in that behalf alledged; and this the said coroner, &c. prays may be enquired of by the country: And the said coroner, &c. further saith, that the said J. C. did not accept the said office of an alderman of, &c. in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further saith, that the said J. C. did not take his corporal oath before the said then mayor of, &c. well and faithfully to execute the said office of an alderman of, &c. in and by all things touching that office in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. also prays may be enquired, &c.: And the said coroner, &c. further saith, that the said J. C. did not become an alderman of, &c. in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. also prays may be enquired, &c.: And the said coroner, &c. further says, that the office of one of the capital citizens of, &c. did not become nor was vacant in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. also prays may be enquired, &c.: And the said coroner, &c. further says, that the then mayor and major part of the aldermen of, &c. did not assemble and gather together to elect and nominate a capital citizen of, &c. in the place of the said J. C. in manner and form as the said W. H. hath in his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired, &c.: And the said coroner, &c. further

Replication
takes issue on
every part of de-
fendant's plea.

further says, that the said W. H. was not by the major part of the then mayor and aldermen of, &c. elected and nominated a capital citizen of, &c. in the place of the said J. C. in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired, &c. : And the said coroner, &c. further saith, that the said W. H. did not take his corporal oath well and faithfully to execute the office of a capital citizen of, &c. in manner and form as the said W. H. hath in and by his said plea in that behalf alledged; and this the said coroner, &c. prays may be enquired, &c. : And the said coroner, &c. further saith, that the said W. H. was not admitted in the place or office of a capital citizen of, &c. in manner and form as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired, &c. : And the said coroner, &c. further saith, that the said W. H. during the said time in the said plea in that behalf specified, or any part thereof, was not nor is one of the capital citizens of, &c. as the said W. H. hath in and by his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired of by the country.

Demurrer to replication.

And the said W. H. saith, that the said plea of the said J. B. esquire, coroner, &c. who for, &c. in this behalf prosecutes, above in reply pleaded, and the matters therein contained are wholly insufficient in law to convict him the said W. H. of the premises above charged upon him, or to forejudge or exclude him from the office, liberties, &c. aforesaid, to which said plea in manner aforesaid above in reply pleaded he the said W. H. is not under any necessity nor is obliged by law to answer, and this he is ready to verify; wherefore for want of a sufficient replication in this behalf he the said W. H. (as before) prays judgment, and that the office, liberties, &c. by him claimed in form as aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Joinder in demurrer by the king's coroner.

And the said J. B. esquire, coroner, &c. who for, &c. in this behalf prosecutes, saith, that the said plea of him the said J. B. esquire, coroner, &c. above in reply pleaded, and the matters therein contained are sufficient in law to convict him the said W. H. of the premises above charged upon him, and to preclude and exclude him from the office, liberties, privileges, and franchises aforesaid, which same plea and the matters therein contained the said coroner, &c. is ready to verify and prove as the court shall award; wherefore inasmuch as the said W. H. hath not answered the said plea, nor in any manner rejoined to the same, the said coroner, &c. prays judgment, and that the said W. H. be convicted of the premises above charged upon him, and that he

he may be forejudged and excluded from the office, liberties, privileges, and franchises aforesaid, &c.

HOBLYN AND OTHERS, Plaintiffs,

and

THE KING, Defendant.

} GEORGE the Third,
by the grace of God,
&c. to our right trusty

Writ of error in
parliament from
B. R.

and well beloved William lord Mansfield, our chief justice appointed to hold pleas before us, greeting: Forasmuch as in the record and process, as also in giving of judgment upon an information in the nature of a *quo warranto*, which was in our court before us exhibited by J. B. our coroner and attorney, at the relation of W. W. against J. Hoblyn, &c. &c. for that they severally use, and claim to have and use the privileges and franchises of a free burgess of the borough of H. in the county of C. manifest error hath intervened, to the great damage of the said John, &c. &c. as by their complaints we are informed, we, willing that the said error (if any be) be duly amended, and full and speedy justice done to the said parties in this behalf, do command that if judgment be given thereupon, then you send distinctly and plainly under your seal the record and process of the said information, with all things touching the same, and this writ to us into our parliament at the next sessions, to be held on, &c. that inspecting the record and process aforesaid, we may cause further to be done thereupon, by the assent of the lords spiritual and temporal in the same parliament to be assembled, for amending the said error as of right and according to the custom and law of England shall be meet to be done. Witness ourself, at W. the twenty-second day of May, in the tenth year of our reign.

APPLEYARD.

By our Lord the King.

The answer of William lord Mansfield, chief justice within named.

Answer of lord
chief justice.

The record and process of the plaint within-mentioned, with all things touching the same, to our lord the king in his present parliament, with my own proper hands I have brought in a certain schedule to this writ annexed, as I am within commanded.

MANSFIELD.

PLEAS before our lord, &c. at W. of Trinity Term, 9. Geo. III.
by the grace, &c. and in the year of Our Lord 1769.
Amongst the pleas of the king. ROLL. 3.

CORNWALL. Be it remembered that J. B. esquire, coroner, &c. in the court of, &c. who for, &c. in his proper person cometh here into the court of, &c. at W. on, &c.
and

Memorandum.

Information a-
gainst several
persons usurping
the offices of
burgesses and free-
man of the bo-
rough of H. in
the county of C.

&c. and for our, &c. at the relation of W. W. of, &c. according to the form of the statute, &c. brought into the court of, &c. before, &c. then there a certain information in the nature of a *quo warranto* against J. H. late of, &c. J. R. &c. &c. which said information followeth in these words, that is to say, Corn- wall : Be it remembered that J. B. esquire, coroner, &c. who for our, &c. in his own proper person cometh here into the court, &c. at W. on, &c. and for our, &c. at the relation of W. W. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the borough of H. in the county of C. is an ancient borough, and that the burgesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of mayor and commonalty of the borough of H. in the county of C. *i. e.* at the borough aforesaid, in the county aforesaid, and that within the said borough there are or ought to be, and for and during all the time aforesaid there have been or ought to have been a mayor, four aldermen, and an indefinite number of burgesses and freemen of and for the said borough, *i. e.* at, &c. and that the office of a burgess and freeman of and for the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, to wit, at, &c. and that J. H. late, &c. J. R. &c. &c. upon, &c. at the borough of H. aforesaid, in the county aforesaid, and from thence continually afterwards to the time of exhibiting this information, have and each of them hath severally used and exercised, and still do and each of them doth thereby severally use and exercise, without any legal warrant, royal grant, or right whatsoever, the office of a burgess and a freeman of the said borough, and for and during all the time last above mentioned have and each of them hath there severally claimed, and still do and each of them doth severally claim, without any legal warrant, &c. to be a burgess and freeman of the said borough, and to have, use, and enjoy all the liberties, privileges, &c. to the said office of a burgess and freeman of the said borough belonging and appertaining, which said office, liberties, &c. they the said J. H. J. R. &c. &c. for and during all the time last above mentioned, upon our, &c. severally have and each of them hath usurped and still do and each of them doth usurp, *i. e.* at, &c. in contempt of our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity ; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against them the said J. H. J. R. &c. &c. in this behalf to make severally answer to our said lord the king, and shew by what authority they severally claim to have, use, and enjoy the office, liberties, &c. aforesaid ; wherefore the sheriff of the said county of C. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should
cause

cause them to come to answer to our, &c. touching and concerning the premises aforesaid.

And now, *i. e.* on, &c. before our, &c. at W. come the said ^{Plea,} J. H. &c. &c. by A. B. their attorney, and having heard the said information read, they complain, that under colour of the premises in the said information contained they are greatly vexed and disquieted, and this by no means justly, because protesting that the said information and the matters therein contained are insufficient in law, and that they need not nor are obliged by the law of the land to answer thereto; yet for plea in this behalf they the said J. H. &c. &c. say, that they do not apprehend that our said, &c. will or ought further to impeach or implead them the said J. H. &c. &c. by reason of the premises in the said information specified, because they say, that true it is that the said borough of H. in the county of C. is an ancient borough, and that the burgesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of mayor and commonalty of, &c. and that within the said borough there are or ought to be, and for and during all the time aforesaid there have been or ought to have been a mayor, four aldermen, and an indefinite number of burgesses and freemen of and for the said borough, and that the office of a burgess and freeman of and for the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching and concerning the rule and government of the said borough, and the administration of public justice within the said borough, as by the said information is above suggested; but the said J. H. &c. &c. further say, that the said borough of H. is and from time immemorial hath been an ancient town and borough, and that the lady Elizabeth, late queen of England, by her letters ^{sets out the} patent under her great seal of England bearing date the twenty- ^{charter of queen} sixth day of January, in the twenty-seventh year of her reign, ^{Elizabeth,} reciting amongst other things that the burgesses and inhabitants of the said borough of H. from time whereof, &c. had peaceably had, held, and enjoyed divers customs, jurisdictions, liberties, &c. &c. as well by prescription as by reason, virtue, and pretext of letters patent, charters, grants, and confirmations to the said burgesses of the said borough and their heirs and successors before that time made, and also that the said burgesses and inhabitants of the said borough of H. had then humbly besought her that she would graciously shew and extend her munificence and favour to them the said burgesses, and that she for the better rule, government, sustaining, and maintaining the same borough would vouchsafe to found, erect, make, create, and establish the said burgesses and inhabitants into another body corporate, she the said late queen therefore considering, and of her knowledge taking it

it for granted that the said borough or vill was an ancient borough and one of the most ancient boroughs within her duchy of C. did by her said letters patent of her certain knowledge and mere motion for herself, her heirs, and successors, will, ordain, constitute, grant, and declare that the borough or vill of H. aforesaid should be and remain for ever thereafter a free borough of itself, and that the burgessees of the said borough for ever thereafter should and might be one body corporate and politic by themselves in deed, fact, and name, by the name of mayor and commonalty of the borough of H. really and fully for herself, her heirs, and successors, by the said letters patent did erect, make, found, establish, ordain, and create one body corporate and politic in deed, fact, and name, and that by the said name they should have perpetual succession, and that by the name of mayor and commonalty of, &c. should and might be at all future times persons fit and capable in law to have, acquire, receive, possess, enjoy, and hold all lands, tenements, liberties, privileges, jurisdictions, franchises, watercourses, and hereditaments whatsoever, of whatsoever kind, nature, or species they should be, to them and their successors in fee and perpetuity, and also to give, grant, limit, and assign those lands, tenements, and hereditaments, and lawfully to do and execute all and singular other deeds and things by the same name; and the said late queen of her further grace, and out of her certain knowledge and mere motion did by the said letters patent assign, nominate, make, constitute, and ordain her beloved subject P. C. an honest man and inhabitant of, &c. to be the first and modern mayor of, &c. by his oath faithfully to execute the office of mayor of, &c. until, &c. and from the same day until one other person should be elected and in due manner sworn faithfully to execute that office, and him the said P. did make, ordain, create, constitute, establish, and declare to be the mayor of, &c. during the term aforesaid, and the said late queen did by her said letters patent for herself, her heirs, and successors, grant to the said mayor and commonalty and their successors, that for the future for ever thereafter from time to time there should and might be four men of the more discreet, honest, and quiet of the said borough of H. who should be aiding and assisting to the mayor of the said borough for the time being, for causes and matters touching the same borough, and who should be and should be called aldermen of, &c. and who, together with the mayor of the said borough for the time being, should be the common council of the said borough, for the making and enacting from time to time statutes, acts, and ordinances touching and concerning the public utility and advantage of the same borough and the inhabitants thereof for the time being, by them or the major part of them, with the mayor of, &c. for the time being, for the better government and rule of the men and causes, things and businesses of the said borough for the time being for ever thereafter; and the said late queen did also by the said

id letters patent assign, nominate, make, constitute, and ordain
 or beloved subjects T. P. &c. inhabitants of &c. to be the
 first and modern four aldermen of, &c. and to be upon their
 oath corporally to be taken before the said P. C. the said modern
 mayor, the common council of the said borough, with the said
 mayor and aldermen, &c. of, &c. for the time being, did make,
 create, constitute, ordain, and declare the common council of,
 &c. for ever; and the said late queen did by her said letters
 patent grant to the said mayor and commonalty of H. and their
 successors that the said mayor and commonalty for the time being,
 together with the aldermen of, &c. for the time being, or the
 major part of the said aldermen, for the future might and might
 be able to elect and admit such and so many of the more discreet,
 honest, and quiet men and inhabitants of the said borough to be
 the burgesses and freemen of, &c. as to them should from time
 to time seem fit and convenient, as by the same letters now re-
 maining of record in the high court of chancery of our, &c. at
 W. &c. amongst other things more fully appears; which said
 letters patent afterwards, to wit, on the first day of February, in
 the twenty seventh year of the reign of our late lady Elizabeth,
 the then burgesses of the said borough of H. accepted, to wit, which was ac-
 &c. and by virtue of the premises the burgesses of the same cepted;
 borough have from thenceforth hitherto been and still are one
 body corporate and politic in deed, fact, and name, by the name
 of mayor and commonalty of, &c.: And the said J. H. &c. &c.
 further say, that after accepting the said letters patent and long
 before the election of them the said J. H. &c. &c. hereinafter
 mentioned, to wit, on the second day of February, in the said
 twenty-seventh year of the reign of our late lady Elizabeth, at
 the borough aforesaid, the then mayor and aldermen of, &c. and
 then being the common council of, &c. with the assent of the
 commonalty of, &c. did make a certain reasonable statute, act, and sets out a
 and ordinance, commonly called a bye-law (not now extant in bye-law for the
 writing), for the avoiding popular confusion in the election of a major part of the
 burgess and freeman of, &c. whereby it was ordained that the aldermen to elect
 mayor and the aldermen, or the major part of the said aldermen honest men, &c.
 of the same borough for the time being, for themselves and with- to be burgesses;
 out the concurrence or assistance of the commonalty of the said
 borough might and might be able at all future times for ever
 thereafter to elect and admit such and so many of the more dis-
 creet, honest, and quiet men and inhabitants of, &c. to be the
 burgesses and freemen of, &c. as to them should from time to
 time seem fit and convenient, to which said bye-law the mayor
 and commonalty of the said borough have from the making thereof
 hitherto conformed themselves, and the same still is in full force,
 in nowise reversed, repealed, or annulled, to wit, at, &c.: And
 the said J. H. &c. &c. further say, that afterwards, to wit, on
 the second day of November, in the fifth year of the reign of
 George the Third, in the said information mentioned, at, &c.
 J. W. esquire, then mayor of, &c. with the major part of the
 aldermen

and defendants
were so elected.

aldermen of, &c. did elect and admit them the said J. H. &c. &c. then and there being of more discreet, quiet, and honest men and inhabitants of, &c. to be burgeses and freemen of, &c. and thereupon they the said J. H. &c. on, &c. did take upon themselves, and each of them did take upon himself the office of burges and freeman of the same borough of H. aforesaid, and by reason of the said premises they the said J. H. &c. on, &c. and from thence constantly afterwards to the time of exhibiting of the said information were and still are burgeses and freemen of the said borough, and by that warrant they the said J. H. &c. for and during all the time in the said information in that behalf mentioned, at, &c. have and each of them hath severally used and exercised, and still do and each of them doth there severally use and exercise the office of a burges and freeman of, &c. and for and during all that time have and each of them there hath severally claimed, and still do and each of them still doth there severally claim to be a burges and freeman of, &c. and to have, use, and enjoy all the liberties, &c. to the said office of a burges and freeman of the said borough belonging and appertaining, as it was and is lawful for them to do; without this, that they the said J. H. &c. during all or any part of the time in the said information mentioned, severally have or any of them hath usurped, or do or any them doth usurp the said office, &c. or any of them upon our, &c. in manner and form as in and by the said information is above alledged against them, all and singular which said matters and things they the said J. H. &c. are ready to verify and prove as the court shall award; whereupon they pray judgment, and that the office, liberties, &c. by them claimed in manner aforesaid may be allowed and adjudged to them, and that they may be dismissed and discharged by the court here of and from the premises above charged upon them, &c.

Replication
takes issue
every part
the plea.

And the said J. B. esquire, coroner, &c. having heard the said plea of the said J. H. &c. by them the said J. H. &c. in manner and form aforesaid above pleaded in bar, for our, &c. faith, that our, &c. by any thing by them respectively above alledged, ought not to be barred from having his aforesaid information against them the said J. H. &c. because protesting that the said plea and the matters therein contained are not sufficient in law to bar our, &c. from having his aforesaid information maintained against them the said J. H. &c. to which said plea in manner and form as the same is above by them respectively pleaded, he the said coroner, &c. hath no occasion nor is he obliged by the law of this realm to answer; yet for replication in this behalf the said coroner, &c. further faith, that our said late queen Elizabeth did not make any such letters patent as in the said plea is for purpose by them the said defendants above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. H. &c. do and each of them doth the like: And the said

said coroner, &c. further saith, that the then burgesles of, &c.
 did not accept the said letters patent as by the said plea is above
 by them the said defendants alledged; and this the said coroner,
 &c. prays may be enquired, &c. and the said J. H. &c. do, &c.
 And the said coroner, &c. further saith, that the then mayor and
 aldermen of, &c. with the assent, &c. did not make any such
 statute, act, or ordinance, commonly called a bye-law, as by the
 said plea is above alledged; and this the said coroner, &c. prays,
 &c. and the said J. H. &c. do, &c.: And the said coroner, &c.
 further says, that the said J. H. &c. were not nor was any of
 them elected and admitted to be burgesles and freemen of the
 said borough in manner and form as the said J. H. &c. have
 above in pleading alledged; and this the said coroner, &c. prays,
 &c. and the said J. H. &c. do, &c.: And the said coroner, &c.
 further says, that the said J. H. &c. were not nor was any of
 them, nor are they or any of them burgesles and freemen, or a
 burges and freeman of the said borough as by the said plea is
 above by them alledged; and this the said coroner, &c. also
 prays, &c. and the said J. H. &c. do, &c.: And the said coro-
 ner, &c. further says, that the said J. H. &c. were not nor were
 any of them at the time of the supposed election inhabitants or an
 inhabitant of the same borough as by the said plea is above al-
 ledged; and this the said coroner, &c. also prays, &c. and the
 said J. H. &c. do, &c.; therefore for the trying of the said several
 issues above joined between our, &c. and the said J. H. &c. in
 manner and form aforesaid, let a jury thereupon come before our, *Venire.*
 &c. on; &c. wheresoever we shall then be in England, by whom,
 &c. and who, &c. to try upon their oath the said several issues
 above joined as aforesaid, because as well the said J. B. esquire,
 who for, &c. in this behalf prosecutes, as the said J. H. &c.
 have thereupon put themselves upon the jury, the same day is *Dies datum.*
 given as well to the said J. B. who prosecutes for our, &c. as to
 the said J. H. &c. at which time, to wit, in the aforesaid, &c.
 before our, &c. at W. come as well the said J. B. esquire, who
 prosecutes for our, &c. as the said J. H. &c. by their attorney
 aforesaid, and the sheriff of the county of C. sent not his writ *Viccomes non*
 for that purpose; therefore in like manner as before let a jury *nisi brevis.*
 thereupon come before our, &c. on, &c. wheresoever we shall
 then be in England, by whom the truth, &c. and who, &c. to
 try upon their oath the said several issues above joined as afore-
 said, because as well the said J. B. who prosecutes for our, &c. as
 the said J. H. &c. have thereupon put themselves upon that jury, *Continuances.*
 the same day is given as well to the said J. B. who prosecutes for,
 &c. in this behalf, as to the said J. H. &c. at which time, to
 wit, on, &c. before our, &c. at W. come as well the said J. B.
 who prosecutes for, &c. as the said J. H. &c. by their attorney
 aforesaid; and the said J. B. now here by leave of the court *Retraxit by co-*
 withdraweth his plea so by him pleaded in reply to the aforesaid *roner, and de-*
 plea of him the said J. H. &c.; and the said J. B. esquire, *murrer.*
 coroner, &c. who for our, &c. having heard the said plea of the
 said

said J. H. &c. by them in manner and form aforesaid above pleaded in bar, for our, &c. saith, that our, &c. by any thing by them respectively above alledged, ought not to be barred from having his aforesaid information against them, because he says, that the said plea and the matters therein contained are not sufficient in law to bar our, &c. from having his aforesaid information maintained against them, and to which said plea and the matter therein contained he the said coroner, &c. who for, &c. prosecutes, hath no occasion nor is he bound by the law of the realm to answer; and this the said coroner, &c. is ready to verify; wherefore for want of a sufficient plea in this behalf, the said coroner, &c. prays judgment, and that the said J. H. &c. and every of them be respectively convicted of the premises above complained of against them, and that they and every of them be respectively ousted of and from the offices, liberties, &c. aforesaid, &c.

Joinder in demurrer.

And the said J. H. &c. say, that the said plea of the said J. H. &c. by them above pleaded to the said information of the said coroner, &c. and the matters therein contained are sufficient in law to bar our, &c. from having his aforesaid information maintained against them, which said plea, and the matters therein contained they the said J. H. &c. are ready to verify and prove as the court shall award, and because the said coroner, &c. hath not yet answered to the said plea nor in any manner denied the same, the said J. H. &c. pray judgment, and that the office, liberties, privileges, &c. by them claimed as aforesaid may be allowed and adjudged to them, and that they may be dismissed and discharged by the court here of and from the premises above charged upon them, &c. and because the said court of our, &c. here is not as yet advised of giving their judgment of and upon the premises aforesaid, a day is therefore given as well to the said J. B. who prosecutes for, &c. as to the said J. H. &c. until in fifteen, &c. wheresoever, &c. to hear their judgment thereupon, for that the said court of, &c. now here is not as yet advised thereupon; at which time, to wit, in, &c. before our, &c. at, W. come as well the said J. B. who prosecutes for, &c. as the said J. H. &c. by their attorney aforesaid; whereupon all and singular the premises being seen and fully understood by the court here, and mature deliberation had therein, it is considered and adjudged by the said court here, that the said plea of the said J. H. &c. so pleaded by them as aforesaid, is insufficient in law; and it is thereupon further adjudged that they the said J. H. &c. or any or either of them do not in any manner intermeddle with or concern themselves or himself in or about the said offices, liberties, &c. but that they and every of them be absolutely forejudged and excluded from ever using or exercising the same, or any of them for the future, and that they the said J. H. &c. in order to satisfy our said, &c. on account of the usurpation aforesaid;

Cur. adv. vult.

Judgment for the crown.

aforesaid, to be taken and set forth ; and that the said W. W. the relator above-mentioned, do recover against the said J. H. &c. the sum of, &c. for his costs by him laid out and expended in carrying on his suit in this behalf, according to the form of the statute in such case made and provided.

THIS was the same question as the last, and no difference in the pleadings, save that the crown had not replied, but demurred *instantly* to the plea, before our, &c. at W. Trinity Term, 11th Geo. III. by the Grace of God, &c.

Among the pleas of the king.

ROLL.

PERRY AND OTHERS } CORNWALL. Be it remem- In error.
at the suit of } bered that J. B. esquire, coroner,
THE KING. } &c. who for, &c. in his proper

person came here into the court of, &c. at W. on, &c. and for our, &c. at the relation of W. W. of, &c. according to the form of the statute, &c. brought into the court of, &c. then there a certain information, in the nature of a *quo warranto*, against R. J. late of, &c. which said information follows in these words, *i. e.* Cornwall: Be it remembered that J. B. esquire, coroner, &c. who for, &c. in his proper person cometh here into the court of, &c. at W. on, &c. for our, &c. at the relation of W. W. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the borough of H. in the county of C. is an ancient borough, and that the burgessees of the said borough now are, and for the space of ten years now last and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of mayor and commonalty of the said borough of H. in the county of C. *i. e.* at, &c. and that within the said borough there is or ought to be, and for and during all the time aforesaid there hath been or ought to have been a mayor of the said borough, *i. e.* at the borough of H. aforesaid, in the said county of C. and that the office of mayor of the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, to wit, at, &c. and that R. J. late of the borough of H. aforesaid, gentleman, upon the thirtieth day of March, in the eleventh year of the reign of George the Third, by the grace, &c. at the borough of H. aforesaid, did use and exercise, and from thence continually afterwards to the time of exhibiting this information hath there used and exercised, and still doth there use and exercise, without any legal warrant, &c. the office of mayor of, &c. and for and during all the time last above mentioned hath there claimed and still doth there claim without any legal warrant, &c. to be mayor of, &c. and to have, use, and enjoy, all the liberties, &c. to the said office of mayor of the said borough belonging and appertaining, which said office, liberties, &c. he the

Information *quo warranto*, defendant usurps the office of mayor of, &c.

said R. J. for and during all the time last above mentioned upon our said present, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said R. J. in this behalf, to make him answer to our said, &c. and shew by what authority he claimeth to have, use, and enjoy the office, liberties, &c. wherefore the sheriff of the said county of C. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our said lord the king touching and concerning the premises afore said.

Plea

And now, that is to say, on, &c. before, &c. at, &c. comes the said R. J. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted and that by no means justly, because protesting that the said information and the matters therein contained are insufficient in law, and that he need not, nor is he obliged by the law of the land to answer thereto; yet for plea in this behalf the said R. J. saith, that he doth not apprehend that our, &c. will or ought further to impeach or implead him the said R. J. by reason of the premises in the said information specified, because he saith that true it is that the said borough of H. in the said county of C. is an ancient borough, and that the burghesses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and commonalty of the borough of H. in the county of C. and that within the said borough there is or ought to be, and for and during all the time afore said there have been or ought to have been a mayor of the said borough, and that the office of a mayor of the said borough for and during all the time afore said hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough and the administration of public justice within the same borough, as by the said information is above suggested; but the said R. J. further says, that the said borough of H. is, and from time immemorial hath been an ancient borough, and that the lady Elizabeth, late

sets out
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charter.

the

queen of England, by her letters patent under her great seal of England, bearing date at W. on, &c. reciting that the burghesses and inhabitants of the said borough of H. from time whereof, &c. had peaceably had, held, and enjoyed divers customs, jurisdictions, liberties, franchises, immunities, exemptions, acquittances, and privileges, as well by prescription as by reason, virtue, and pretext of letters patent, charters, grants, and confirmations to the burghesses of the said borough, and their heirs, and successors before that time made, and also that the burghesses and inhabitants of

of the said borough of H. had then humbly besought her that she would graciously show and extend her munificence and favour to them the said burgessees, and that she for the better rule, government, sustaining, and maintaining of the same borough, would vouchsafe to found, erect, make, create, and establish the said burgessees and inhabitants into another body corporate, she the said late queen therefore considering, and of her knowledge taking it for granted that the said borough or vill was an ancient borough, and one of her most ancient boroughs within her duchy of Cornwall, did, by the said letters patent of her certain knowledge and mere motion for herself, her heirs, and successors, will, ordain, constitute, grant, and declare that the borough or vill of H. aforesaid should be and remain for ever thereafter a free borough of itself, and that the burgessees of said borough should and might be one body corporate and politic by themselves in deed, fact, and name, by the name of the mayor and commonalty of the borough of H. really and fully for herself, her heirs, and successors, by the said letters patent did erect, make, found, establish, ordain; and create one body corporate and politic, and that by the same name they should have perpetual succession, and that they by the name of mayor and commonalty of, &c. should and might be at all then future times persons fit and capable in law to have, acquire, receive, possess, enjoy, and hold lands, tenements, liberties, &c. whatsoever, of whatsoever kind, nature, or species they should be, to them and their successors in fee and perpetuity, and also to give, grant, limit, and assign those lands, tenements, and hereditaments, and lawfully to do and execute all and singular other deeds and things by the same name: And the said late queen of her further grace, and out of her certain knowledge, and mere motion, did by the said letters patent assign, nominate, make, constitute, and ordain her then beloved subject P. C. an honest man, and then an inhabitant of the said borough of H. to be the first and modern mayor of the said borough of H. upon his oath faithfully to execute the office of mayor of, &c. until, &c. and from the same day until one other person should be elected and in due manner sworn faithfully to execute that office, and him the said P. did make, ordain, create, constitute, establish, and declare to be the mayor of, &c. during the term aforesaid: And the said late queen did by the said letters patent for herself, her heirs, and successors, grant to the said mayor, commonalty, and their successors, that for ever thereafter from time to time there should and might be four men of the more discreet, honest, and quiet of the said borough of H. who should be aiding and assisting to the said mayor of, &c. for the time being for causes and matters touching the same borough, and who should be and should be called aldermen of, &c. and who should be, together with the mayor of the said borough for the time being, the common council of, &c. for the making and enacting from time to time statutes, acts, and ordinances touching and concerning the public utility and advantage of the same borough and the in-

Mode of election
of mayor.

habitants thereof for the time being, by them or the major part of them with the mayor of, &c. for the time being, for the better government and rule of the men, and causes, things, and businesses of the said borough for the time being for ever thereafter: And the said late queen did also by the said letters patent assign, nominate, make, constitute, and ordain her beloved subjects J. P. &c. inhabitants of the said borough, to be the first and modern four aldermen of, &c. and to be upon their oath, corporally to be taken before the said P. C. the said modern mayor, the common council of the said borough, and them with the said mayor and aldermen of, &c. for the time being, did make, create, constitute, ordain, and declare the common council of, &c. for ever: And the said late queen did by the said letters patent grant to the said mayor and commonalty of the said borough of H. and their successors, that the said mayor and commonalty for the time being, together with the aldermen of the said borough for the time being, or the major part of the said aldermen, for the then future might and might be able to elect and admit such and so many of the more discreet, quiet, and honest men, and inhabitants of, &c. to be burgesses and freemen of, &c. as to them should from time to time seem meet and convenient: And the said late queen of her further grace, and of her certain knowledge, and mere motion, for herself, her heirs, and successors, by the said letters patent granted to the said mayor, commonalty, and their successors, that the said mayor and aldermen of the said borough of H. for the time being, or the mayor of, &c. and the major part of the aldermen of, &c. from time to time every year for ever thereafter, on Sunday next, &c. between the hours of nine and twelve in the forenoon of the same day, should meet and might be able to meet in the Guildhall of the same borough, or in some other convenient place within the said borough, and there might and might be able to nominate and assign two men then being aldermen of, &c. before the freemen of, &c. then and there present, to the intent that the other freemen of, &c. then and there present, or the major part of them, should elect, and might and might be able to elect one out of those two aldermen so nominated and assigned to the office of mayor of the said borough of H. and to be the mayor of, &c. for one whole year then next following, which said man so elected to the office of mayor, after having in due manner made and taken his corporal oath, should bear the office of mayor of, &c. for one whole year then next following, to wit, from Sunday, &c. until Sunday, &c. and from that day until one other person should be in due manner elected and sworn well and faithfully to execute and perform that office, and that every person after being so elected into the office of mayor should take his corporal oath before his last predecessor in the same office, if such predecessor should be living and then present, and if dead or absent then before the recorder and aldermen of, &c. there present, or the major part of them, for the faithful execution of the said office of mayor of, &c. as by the said letters patent now remaining of record in, &c. at W. amongst other things

things more fully appears, which said letters patent aforesaid, to wit, on, &c. the then burgeses of the said borough of H. aforesaid accepted, to wit, at, &c. and by virtue of the premises the burgeses of, &c. have from thenceforth hitherto been, and still are one body corporate and politic in deed, fact, and name, by the name of the mayor and commonalty of the borough of H.:

And the said R. J. further says, that on the Sunday next before, &c. or on the then next day, or at any time afterwards until the election of the said R. J. into the office of mayor of, &c. as hereafter is mentioned, there was not any election of a mayor of the said borough, but the office of mayor of, &c. was there during all that time vacant, and thereupon a certain writ of our lord, &c. of *mandamus*, on, &c. duly and according to the form of the statutes, &c. issued out of the court of, &c. the said court then and still being held at W. &c. directed to the aldermen and burgeses of the borough of H. in the said county of C. and to every of them, by which said writ, reciting amongst other things that the said lord the now king had been given to understand by several of the burgeses and inhabitants of, &c. that on, &c. then last past, being the day appointed by the said letters patent for the nomination and election of a mayor of the said borough, no nomination and election was made of a mayor of the said borough for the year then next ensuing, nor was any election made of a mayor of and for the said borough upon the next day after the said Sunday, &c. according to the directions of the said statute in that case made and provided, nor had any election been made of a mayor of and for the said borough at any time from thence until the issuing of the said writ, in contempt of our said lord the king, and to the great damage and grievance of the burgeses and inhabitants of the said borough, and to the apparent injury of their estates, and also to the manifest hindrance and obstruction of public justice within the said borough, as the said lord the king had been informed from the complaints of the burgeses and inhabitants of the said borough made to the said lord the king in that behalf; the said lord the king therefore being willing that due and speedy justice should be done in that behalf (as it was reasonable) did by the said writ command them the said aldermen and freemen of the king's said borough, and every of them, firmly enjoining them that upon Saturday the day of March then next ensuing, at ten of the clock in the forenoon of the same day, they the said aldermen and freemen should in due manner assemble themselves in the Guildhall of, &c. and being then and there so assembled, that they the said aldermen should, according to the true intent and meaning of the said letters patent, and according to the directions of the statute in that case made and provided, then and there in due manner nominated and assigned two persons out of the aldermen of the said borough, before the freemen of the same borough then and there present, in order that the other freemen of, &c. then and there present, or the major part of them, might in due manner elect one out of those two aldermen so to be nominated

That on charter day office of mayor become vacant, and *mandamus* issued to aldermen, &c. to elect.

and assigned by them to the office of mayor of the said borough of H. and to be mayor of, &c. for one whole year, to be computed from Sunday next, &c. then last past, according to the true intent and meaning of the said letters patent, and also according to the directions of the statute, &c. and that they the said freemen of the said borough should also then and there in due manner assemble themselves together, and being then and there so assembled that they the said freemen of, &c. should in due manner elect one of the same two aldermen of, &c. to be nominated by the said aldermen of, &c. to be mayor of the said borough for one whole year, to be computed from the said Sunday next before, &c. as aforesaid, according to the true intent and meaning of the said letters, and also according to the directions of the statutes in that case made and provided, and that they and every of them should do every act necessary to be done in order to the said election, and that such of them to whom the same did or should belong should administer or cause to be administered to such person, who should be so nominated and elected into the said office of mayor of the said borough, the oath for the due and faithful execution of the office of mayor of, &c. and also all such other oaths as were or ought to be in such case administered and taken, and that they should also admit and swear, or cause to be admitted and sworn the same person into the said office of mayor of the said borough, with all the liberties, &c. to the said office belonging and appertaining, according to the directions of the said statute in that case made and provided, or shew the said lord the king to the contrary thereof by their or any of their default, the same complaint should be repeated to our said lord the king, and how they and every of them should have executed, that the said lord the king's writ they should make known to the said lord the king at Westminster, on, &c. then returning to the said lord the king that the said lord the king's writ, and that neither they nor any of them were to omit upon peril that might fall thereon: And the said R. J. further says, that at the time of the issuing of the said writ of *mandamus*, and from thence until and at the time of the election of the said R. J. into the office of mayor of the said borough, as hereafter is mentioned, there were only two aldermen of the said borough, that is to say, one H. C. and the said R. J. and that the said H. R. was at both those times the senior alderman of the said borough, and as such senior alderman was the nearest in place and office to the mayor of the said borough, and that the same writ, after the issuing the same, and before the return thereof, and before the said election of the said R. J. into the said office of mayor of, &c. as hereafter is mentioned, to wit, on, &c. at, &c. was delivered to the said H. R. and R. J. then and still aldermen of, &c. and to the freemen of the said borough, to be executed in due form of law, and after the issuing of the said writ, and six days before the said thirtieth day of March, by the said writ appointed for the holding of the said assembly, to wit, on, &c. public notice in writing of holding the said assembly of the aldermen and freemen

That at the time of issuing writ the defendant and H. R. were the only two aldermen surviving, and they elected defendant, being senior alderman.

for the election of a mayor according to the said writ, was affixed at the Guildhall in the said borough, the same being a public place in the same borough, by W. S. who had before been appointed for that purpose by the said court of, &c. to wit, at, &c.: And the said R. J. further says, that after the said issuing the said writ, and before the return thereof, and before such time as the said R. J. took upon himself to use or exercise the office of mayor of the said borough, as in the said information is mentioned or claimed to be mayor of, &c. or to have, use, and enjoy all or any of the liberties, &c. to the said office of mayor of, &c. belonging or appertaining, to wit, on, &c. the said H. R. and R. J. then being the only two aldermen of, &c. and the other freemen of the said borough, did assemble and meet together at and in the said Guildhall of the said borough, in order for the election of a mayor of, &c. in obedience to and by virtue of the said writ, no mayor of the said borough being then present, and the office of mayor of, &c. as aforesaid being vacant as aforesaid, and the said H. R. and R. J. did then and there nominate and assign him the said R. J. and the said H. R. being then the only two aldermen of the said borough, before the said other freemen of the said borough then and there present, to the intent that the said other freemen of the said borough then and there present, or the major part of them, might elect one of them the said H. R. and R. J. so nominated and assigned as aforesaid, to be the mayor of the said borough for the said one year from the said Sunday next before, &c. to wit, until, &c. and the said other freemen of the said borough then and there present did then and there elect him the said R. J. to be mayor of the said borough for the said one year from the said Sunday, &c. to wit, at, &c. according to and in pursuance of the said writ, and by force of the statute in such case made and provided: And the said R. J. further says, that after his said election into the said office, and before such time as the said R. J. took upon himself to use or exercise the said office of mayor of the said borough, or claimed to be mayor of the said borough, to wit, on, &c. he the said R. J. did take his corporal oath before the said H. R. so being the senior alderman of the said borough, and next in place and office to the mayor of the said borough, and who presided at the said election, and was also the only other alderman of, &c. then in being, &c. the office of recorder of the said borough being also then vacant, faithfully to execute the office of mayor of the said borough, and was then and there duly sworn and admitted by the said H. R. into the office of mayor of the said borough, and by virtue of the said premises and by force of the statute in such case made and provided, the said R. J. afterwards, to wit, on, &c. and continually afterwards for and during all the time in the said information mentioned, was and still is mayor of the said borough, to wit, at, &c. and by that warrant he the said R. J. on, &c. and from thence continually for and during all the time in the said information mentioned, at, &c. did use and exercise, and claim to use and exercise, and from thence hitherto

used and exercised, and still uses and exercises, and hath claimed and still claims to use and exercise the said office of mayor of the said borough, and to be the mayor of the said borough, and to have, use, and enjoy all the liberties, &c. to the said office of mayor of the said borough belonging and appertaining, as it was lawful for him to do; without this that he the said R. J. the said office of mayor, liberties, &c. in the said information above mentioned, or any of them, hath usurped or did usurp upon our said lord the king in manner and form as in and by the said information is above alledged against him, all and singular which said matters and things the said R. J. is ready to verify and prove as the court shall award; whereupon he prays judgment, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him by the said information in form aforesaid.

Replication traverses every part of the plea, and issue on each.

And the said J. B. coroner of, &c. having heard the said plea of the said R. J. in manner and form aforesaid above pleaded in bar, for our said, &c. says, that for any thing in the said plea of the said R. J. alledged, our said present, &c. ought not to be barred from having his aforesaid information against the said R. J. because protesting that the same plea and the matter therein contained are insufficient in law to bar our said, &c. from having his said information against the said R. J.; yet for replication in this behalf the said J. B. esquire, coroner, &c. says, that no such writ of *mandamus* issued out of the said court of, &c. as the said R. J. hath in his said plea alledged, and this the said coroner, &c. prays may be enquired of by the country, and the said R. J. doth so likewise: And the said coroner further says, that at the time of the said supposed election of the said R. J. in that plea mentioned, the said H. R. was not the senior alderman of the said borough in manner and form as the said R. J. hath in his said plea in that behalf alledged; and this the said coroner, &c. prays, &c. and the said R. J. doth so likewise: And the said coroner, &c. further says, that the said H. R. at the time of the said supposed election of the said R. J. in that plea mentioned, was not the nearest in place and office to the mayor of the said borough in manner and form as the said R. J. hath in his said plea in that behalf alledged; and this the said corner, &c. prays, &c.: And the said coroner, &c. further says, that the said supposed writ of *mandamus* in the said plea mentioned was not delivered to the said H. R. and R. J. the then and still aldermen of the said borough, and to the freemen of, &c. to be executed in due form of law, in manner and form as the said R. J. hath in that plea alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that public notice in writing of holding the said supposed assembly of the aldermen and freemen of, &c. for the election of a mayor according to the said writ, was not affixed at the Guildhall of, &c. six days before the said time of holding the said supposed assembly in manner and form as, &c.; and this the said coroner, &c. prays, &c.:

&c.: And the said coroner, &c. further says, that W. S. was not appointed by the said court of, &c. for the purpose of fixing public notice in writing for holding the said supposed assembly of the said aldermen and freemen for the election of a mayor at the Guildhall of, &c. in manner and form, as, &c.; and this the said coroner prays, &c.: And the said J. B. coroner, &c. further says, that the said H. R. and R. J. and the other freemen of the said borough, did not assemble and meet together at and in the Guildhall of the said borough, in order for the election of a mayor of the said borough in manner and form as, &c.; and this the said coroner prays, &c.: And the said coroner, &c. further says, that the said H. R. and R. J. did not nominate and assign the said H. R. and R. J. before the said other freemen of the said borough then there present, to the intent that the said other freemen of the said borough then and there present, or the major part of them, might elect one of them the said H. R. and R. J. to be the mayor of, &c. for the space of one year from the said Sunday, &c. in manner and form as, &c.; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said other freemen then and there present did not elect him the said R. J. to be the mayor of the said borough for the said one year from the said Sunday, &c. in manner and form as, &c.; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said R. J. did not take his corporal oath faithfully to execute the office of mayor of the said borough before the said H. R. in manner and form as, &c.: And this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said H. R. did not preside at the said supposed election in manner and form as, &c.; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said office of recorder of the said borough was not vacant at the time the said R. J. took the said oath in manner and form as, &c.; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said R. J. was not duly sworn and admitted by the said H. R. into the office of mayor of the said borough in manner and form, &c.; and this the said coroner, &c. prays, &c. and the said R. J. doth the like, &c.

Afterwards, on the day and at the place within mentioned, before E. W. esquire, one of the justices of our lord the king, before the king himself, and sir H. A. knight, one other of the justices of our, &c. assigned to hold pleas before the king himself, justices of our, &c. assigned to take the assizes in and for the county of C. according to the form of the statute, &c. come as well the said J. B. esquire, who for our, &c. as the said R. J. esquire, by his attorney within named, and the jurors of the jury whereof mention is within made, being called, likewise come and are chosen, tried, and sworn upon that jury, whereupon public proclamation is made here in court for our, &c. as the custom is that

Postea all the issues found for defendant, except second, third, and last, and

that if there be any one who will inform the justices aforesaid, the king's serjeant at law, the king's attorney general, or the jurors of the jury aforesaid, concerning the matters within contained they should come forth and they should be heard, and thereupon W. D. his majesty's serjeant at law offereth himself in behalf of our, &c. to do this, whereupon the court here proceedeth to the taking the inquest aforesaid by the jurors aforesaid now here appearing for the purpose aforesaid, who being chosen, tried, and sworn to speak the truth touching and concerning the matters within contained, as to the said issue first within joined upon their oath say, that such writ of *mandamus* did issue out of the said court of our, &c. as the said R. J. hath in his said plea alledged: And as to the fourth issue within joined, the jurors aforesaid upon their oath aforesaid say, that the said writ of *mandamus* was delivered to the said H. R. and R. J. the then and still aldermen of the said borough, and to the freemen of, &c. to be executed in due form of law, as the said R. J. hath in his said plea alledged: And as to the fifth issue within joined, the jurors aforesaid upon their oath aforesaid say, that public notice in writing of holding the said assembly of the aldermen and freemen of the said borough for the election of a mayor according to the said writ, was affixed at the Guildhall of the said borough six days before the said time of holding the said assembly, as the said R. J. hath in his said plea alledged: And as to the sixth issue within joined, the jurors aforesaid upon their oath aforesaid say, that the said W. S. was appointed by the said court of, &c. for the purpose of fixing public notice in writing of holding the said assembly of the said aldermen and freemen for the election of a mayor at the Guildhall in the said borough, as the said R. J. hath in his said plea alledged: And as to the seventh issue within joined, the jurors aforesaid upon, &c. say, that the said H. R. and R. J. and the other freemen of, &c. did assemble and meet together at and in the Guildhall of, &c. in order for the election of a mayor of, &c. as the said R. J. hath in his said plea alledged: And as to the eighth issue within joined, the jurors aforesaid upon their oath aforesaid say, that the said H. R. and R. J. did nominate and assign the said R. J. and H. R. before the said other freemen of the said borough then there present, to the intent that the said other freemen of the said borough then and there present, or the major part of them, might elect one of them the said H. R. and R. J. to be the mayor of the said borough for the said one year from the said Sunday, &c. as the said R. J. hath in his said plea alledged: And as to the ninth issue within joined, the jurors aforesaid upon, &c. say, that the said other freemen then and there present did elect him the said R. J. to be mayor of the said borough for the said one year from the said Sunday next, before the, &c. as the said R. J. hath in his said plea alledged: And as to the tenth issue within joined, the jurors aforesaid, upon, &c. say, that the said R. J. did take his corporal oath faithfully to execute the office of mayor of, &c. before the said H. R. as the said R. J. hath in his said

saïd plea alledged: And as to the eleventh issue within joined, the jurors aforesaid upon, &c. say, that the saïd H. R. did preside at the saïd election, as the saïd R. J. hath in his saïd plea alledged: And as to the twelfth issue within joined, the jurors aforesaid upon, &c. say, that the office of recorder of the saïd borough was vacant at the time the saïd R. J. hath in his saïd plea alledged:

And as to the saïd several issues secondly, thirdly, and lastly within joined, the jurors aforesaid upon, &c. say, that the late queen Elizabeth, by her saïd letters patent in the saïd plea mentioned, did will, and for herself, her heirs, and successors, of her grace, knowledge, and mere motion, did grant to the mayor and commonalty of the saïd borough and their successors, that when and as often as it might happen that any alderman of the saïd borough of H. for the time being should die, or dwell out of the saïd borough, or for any cause be removed from his office of alderman of, &c. that then and so often it should and might be lawful for the mayor and residue of the aldermen of, &c. for the time being, or the major part of the same from time to time, when it might please and seem expedient to them within eight days next after the death or amoval of such alderman, to meet in the Guildhall or other convenient place within the saïd borough at their pleasure, and there to nominate and elect one or more other persons then being freemen of the saïd borough, to be an alderman or aldermen of the saïd borough for life, and that every such person so nominated and elected from the time of such election should be an alderman or aldermen of, &c. for life or otherwise, if it seem meet to the mayor and residue of the aldermen of, &c. of H. for the time being, or the major part of them, and that every person so nominated and elected to the office of aldermen of the saïd borough should take his corporal oath before the mayor of the saïd borough to execute the office of alderman of that borough: And the jurors aforesaid upon their oath aforesaid further say, that our late sovereign lord Charles the First, late king of England, &c. on, &c. by his certain letters patent under the great seal of England, bearing date at W. on the saïd day of , in the sixteenth year of his reign aforesaid, of his special grace, certain knowledge, and mere motion, willed, and by the saïd letters patent for himself, his heirs, and successors, did grant to the aforesaid mayor and commonalty of the saïd borough of H. and their successors, that always in all time to come for ever thereafter, the mayor and recorder of the saïd borough for the time being, for and during the several and respective times in which they should be and remain in their office aforesaid, and such like person for the time being which the office of mayor in the same borough last should undergo, for and during the space of one whole year, to be accounted immediately after he should cease from that mayoralty, and should be thereof dismissed, might and should be justices of the saïd late king, and each of them might and might be justice of the saïd, &c. and his heirs, and successors, to keep the peace within the borough aforesaid, the liberties and precincts of the same, and

as to second, third, and last issues, queen Elizabeth by charter ordained, if alderman die or be removed residue to proceed to elect.

That by Charles the First mayor and recorder to be justices.

the

and might determine, &c. except treason, &c.

the statute of vagabonds, artificers, and labourers, of the weights and measures within the borough aforesaid, and the liberties and precincts of the same, to keep and erect, and to cause to be kept and erected, and that the same justices and two of them, of whom the mayor of the said borough the said late king Charles the First willed to be one, might have power and authority in the same borough, the liberties, limits, and precincts of the same borough, and to do and execute all and singular the things which to the office of a justice of the peace should belong, appertain, and be incumbent, in as ample manner and form as any other keeper or justice of the peace in any county of his kingdom of E. and by the laws and statutes of his said kingdom of E. ought or could do, and that every such like mayor and recorder for the time being and by the space of one whole year as aforesaid, to be accounted such person, which last should have undergone the office of mayoralty in the said borough, and from thenceforth should cease for the time being, or any two of them, of whom the mayor of, &c. for the time being he the said late, &c. willed to be one, should and might for ever enquire, hear, and go through, and determine all and singular the offences, trespasses, defaults, things, and matters which to the office of justice of the peace within the borough aforesaid and the liberties and precincts thereof belong, to be done so freely, fully, and wholly, and in as ample manner and form as any justice of peace of our said late king Charles the First, his heirs, and successors, in any county within his kingdom of E. should or might be able to enquire, hear, and determine; yet so that the aforesaid mayor, recorder, and such person as aforesaid, who from his office of mayoralty last should cease by one whole year next following for the time being, to the determining of any treason, murder, or felony, or of any other matter or cause touching the loss of life or member within the borough aforesaid, or the liberty or precincts of the same, without the special command of our said late, &c. his heirs, and successors, in anywise from thenceforth they should not proceed: And our said late king Charles the First willed also, and by the said letters patent for himself, his heirs, and successors, did grant to the aforesaid mayor and commonalty of the borough of H. aforesaid, and their successors, that the same justices of the borough aforesaid, so as before nominated and constituted, before that they should be admitted to the execution of the aforesaid office of justice of the peace, should, and every of them should take a corporal oath before the justices of the peace of the county of C. at the general sessions of the peace of the same county next to be held, or before any justices of the peace of the county aforesaid for the time being: And our said late sovereign king Charles the First did by his said letters patent grant full power and authority to administer such an oath without any warrant or commission of our said late, &c. willed also, and by the said letters patent willed for himself, his heirs, and successors, and did grant to the said mayor, and commonalty, and their successors, that the mayor and recorder of, &c. aforesaid,

aforesaid, who afterwards for the time being should be, and such person who from the office of mayoralty of the borough aforesaid should last depart, who according to the true intention aforesaid thereafter should be justices of the peace of the said borough, and every one of them, should take a corporal oath before the aldermen of the said borough, or any two or more of them, rightly and truly to execute the office according to the laws and statutes of this kingdom of England, to which said aldermen any two or more of them for the time being our said late, &c. did by the said letters patent give full power and authority from time to time to administer such an oath, which said last-mentioned letters patent afterwards, on, &c. were accepted by the said mayor and commonalty of the said borough: And the jurors aforesaid upon, &c. further present that on, &c. in the year of Our Lord 1744, the office of an alderman of the said borough was vacant by the death of J. P. then lately one of the aldermen of the said borough, and thereupon the said R. J. was on that day duly elected and sworn an alderman of the said borough in the room and place of the said J. P.: And the jurors aforesaid upon, &c. further say, that on, &c. the office of one of the aldermen of the said borough was vacant by the death of H. T. then lately one of the aldermen of the said borough, and thereupon the said H. R. was on that day duly elected and sworn to be an alderman of the said borough in the room and place of the said H. T.: And the jurors aforesaid upon their oath aforesaid further say, that from the year of Our Lord 1717 to the time of filing this information, it hath been and was the usage of and in the said borough, that as soon as any alderman, who during that time hath served the office of mayor and justice of the peace of and in the said borough, hath ceased to be justice of the peace of the said borough, another person hath been elected an alderman of the said borough in the room of such person, and hath been sworn in accordingly an alderman of the said borough: And the jurors aforesaid upon their oath aforesaid further say, that on, &c. the said H. R. was in due manner chosen, admitted, and sworn to be mayor of the said borough for the year then next ensuing, and thereupon J. R. esquire, the then last mayor of, &c. was in due manner sworn and admitted to be the justice of the peace within the said borough for the year then next ensuing: And the jurors aforesaid upon, &c. further say, that on, &c. G. J. esquire, one of the aldermen of the said borough, was in due manner chosen, admitted, and sworn to be mayor of the said borough for the year then next ensuing, and thereupon the said H. R. the then last mayor of the said borough was in due manner admitted and sworn to be the justice of the peace within the said borough for the year then next ensuing: And the said H. R. was then and there re-elected by the mayor and aldermen of, &c. to be an alderman of, &c. and was then and there sworn by the mayor of the said borough to be an alderman: And the jurors aforesaid upon, &c. further say, that on, &c. the said R. J. was in due manner chosen, admitted, and sworn to be mayor of the said borough

That office of alderman was vacant.

Usage to elect such justice as aforesaid to be alderman, and defendant elected such justice.

Defendant re-elected mayor.

Defendant re-
elected,

but whether se-
nior alderman
pray advice and

then duly, &c.

but if not se-
nior, &c. then,
&c.

borough for the year then next ensuing, and thereupon the said G. J. the then last mayor of, &c. was in due manner admitted and sworn to be a justice of the peace within the said borough for the year then next ensuing, and the said H. R. was then and there re-elected by the mayor and aldermen of the said borough to be an alderman of the said borough, and was then and there sworn by the mayor of, &c. to be an alderman of, &c.: And the jurors aforesaid upon, &c. further say, that on, &c. J. W. esquire, then one of the aldermen of the said borough was in due manner chosen, admitted, and sworn to be mayor of, &c. for the year then next ensuing, and thereupon the said R. J. who was then and there the last mayor of, &c. was in due manner admitted and sworn to be the justice of peace within the said borough, and the said G. J. was then and there re-elected by the mayor and aldermen of, &c. to be an alderman of, &c. and was then and there sworn by the mayor of, &c. to be an alderman of, &c.: And the jurors aforesaid upon, &c. further say, that on, &c. J. R. then one of the aldermen of, &c. was in due manner chosen, admitted, and sworn to be mayor of, &c. for the year then next ensuing, and thereupon the said J. W. the then last mayor of, &c. was in due manner admitted and sworn to be the justice of the peace within the said borough: And the said R. J. was then and there re-elected by the mayor and aldermen of, &c. to be an alderman of, &c. and was then and there sworn by the mayor of, &c. to be an alderman of, &c. but whether upon the whole matters aforesaid, by the jurors aforesaid in manner aforesaid found, the said H. R. at the time of the said election of the said R. J. into the office of mayor of, &c. in the said plea mentioned, was the senior alderman of, &c. or was the nearest in place and office to the mayor of, &c. or whether the said R. J. was duly sworn and admitted by the said H. R. into the office of mayor of, &c. the said jurors are altogether ignorant, and therefore pray the advice of the court, and if upon the whole matter aforesaid, by the jurors aforesaid, in manner aforesaid found, it shall appear to the said court of our, &c. that the said H. R. at the time of the said election in the said plea mentioned was the senior alderman of the said borough, and was nearest in place and office to the mayor of the said borough, and that the said R. J. was duly sworn and admitted by the said H. R. into the office of mayor of, &c. then the jurors aforesaid upon their oath aforesaid say, that the said H. R. at the time of the said election of the said R. J. in the said plea mentioned, was the senior alderman of the said borough, and was the nearest in place and office to the mayor of, &c. and that the said R. J. was duly sworn and admitted by the said H. R. into the office of mayor of the said borough in manner and form as the said R. J. hath in his said plea alledged, but if upon the whole aforesaid, by the jurors aforesaid in manner aforesaid found, it shall appear to the said court of our said, &c. that the said H. R. at the time of the said election of the said R. J. in the said plea mentioned, was not the senior alderman of the said borough, and was not the nearest in place and office

office to the mayor of the said borough, and that the said R. J. was not duly sworn and admitted by the said H. R. into the office of mayor of, &c. then the jurors aforesaid upon their oath aforesaid further say, that the said H. R. at the time of the said election of the said R. J. in the said plea mentioned, was not the senior alderman of, &c. nor was the nearest in place and office to the mayor of, &c. and that the said R. J. was not duly sworn and admitted by the said H. R. into the office of mayor of, &c. in manner and form as the said J. B. esquire, coroner, hath in his said plea above pleaded in reply alledged.

F. BULLER.

Pleas before our, &c. at Westminster in Easter term, twenty-third George the Third.

Among the pleas of the crown.

ROLL.

KENT. Be it remembered that J. T. esquire, coroner, &c. who for, &c. in his proper person came here into court of, &c. at W. on, &c. at the relation of C. H. of, &c. according to the form, &c. brought into the court of, &c. then there a certain information in the nature of a *quo warranto* against J. L. late of, &c. which said information followeth in these words, *i. e.* Kent. Be it remembered that J. T. esquire, coroner, &c. who for, &c. in his own proper person cometh, &c. at, &c. on, &c. for our, &c. at the relation of C. H. &c. according to the form, &c. giveth the court here to understand and be informed, that the town of F. in the county of Kent is an ancient town, and that the freemen of the said town now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor, jurats, and commonalty of the town of F. in the county of Kent, *i. e.* at, &c. and that within the said town, for and during all the time aforesaid, there have been, and ought to have been, and still of right ought to be a certain number not exceeding twenty-four of the said commonalty, commonly called commoners or common council men of the said town, *i. e.* at, &c. and that the said place or office of commoner or common council man of the said town for and during all the time aforesaid hath been and still is a public office, and franchise of great trust and pre-eminence within the said town, touching the rule and government of, &c. and that one J. L. late of, &c. upon, &c. at the town of F. &c. did use and exercise, and from thence continually to the time of exhibiting this information hath there used and exercised, and still doth there use and exercise, without any legal, &c. the place, office, and franchise of one of the commoners or common council men of the said town, and for and during all the time last above mentioned hath there claimed and still doth there claim without any legal, &c. to be one of the commoners or common council men of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises of the said place and office of one of the commoners or common council men of the

Information *quo warranto*, defendant usurps office of commoner in the town of F. in Kent.

the said town belonging and appertaining, which said place, office, franchise, liberties, and privileges, he the said J. L. for and during all the time last above mentioned upon our, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. L. in this behalf to make him answer to our, &c. and shew by what authority he claimeth to have, use, and enjoy the place, office, liberties, &c. aforesaid; wherefore the sheriff was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our, &c. touching and concerning the premises aforesaid.

Plea, corporation by prescription.

And now, *i. e.* on, &c. before our, &c. at, &c. comes the said J. L. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and this by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he hath no need, nor is bound by the law of the land to answer thereto, yet for plea in this behalf he the said J. L. saith, that he doth not think that our said lord the king should or ought further to trouble or impeach him the said J. L. by reason of the premises in the said information mentioned and specified, because he says, that true it is that the said town of, &c. is an ancient town, and that the freemen of the said town now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of mayor, jurats, and commonalty of the town, &c. *i. e.* at, &c. and that within the said town for and during all the time aforesaid there have been, and ought to have been, and still of right ought to be a certain number not exceeding twenty-four of the commonalty, commonly called commoners or common council men of the said town, *i. e.* at, &c. and that the place and office of a commoner or common council man of the said town for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said town, touching the rule and government of, &c. to wit, at, &c. as by the said information is above supposed; but the said J. L. for plea in this behalf further says, that the mayor, jurats, and commonalty of the said town ought to have, use, and enjoy divers liberties, privileges, franchises, immunities, customs, pre-eminences, and other hereditaments, as well by divers charters and letters patent of divers late queens and kings of England, as by reason of divers prescriptions from time whereof, &c. used, had, and approved of within the said town, *i. e.* at, &c.: And the said J. L. for plea further saith, that wherever there hath been

been *only one vacancy* in the said number of commoners or common council men of, &c. the ancient custom and method of electing and admitting of a commoner and common council man of the said town from time whereof, &c. hath been, and still is, and ought to be for the mayor, jurats, and commoners or common council men of, &c. for the time being, or for the mayor and so many of the jurats and commoners or common council men of, &c. for the time being as were willing and had a mind to present (when they have thought it necessary) to meet and assemble themselves together in a certain ancient place within the said town called the Guildhall, upon due notice given in that behalf, and then and there so met and assembled together as aforesaid, they the mayor, jurats, and commoners or common council men of the said town or the major part of them then and there present have for all the time aforesaid elected, and have made, used, and been accustomed to elect, and of right may elect such person, being one of the commonalty of the said town as they have thought fit and do think fit and proper to be a commoner or common council man of the said town, and such person so elected as aforesaid hath for all the time aforesaid been sworn and admitted into the said office of a commoner or common council man of, &c. before the said mayor, jurats, and commoners or common council of, &c. then and there so met and assembled together as aforesaid, or before the mayor, jurats, and commoners or common council men at any other time met and assembled in the Guildhall of, &c. and every person being so elected, sworn, and admitted into the said office of a commoner or common council man of, &c. hath always from time whereof, &c. there had, used, and exercised, and hath been used and exercised, and hath been used and accustomed there to have, use, and exercise the office of a commoner or common council man of, &c. and hath always for and during all the said time whereof, &c. there had, used, and enjoyed, and hath been used and accustomed, and ought there to have, use, and enjoy all the liberties, &c. to the said office of one of the commoners or common council of the said town belonging and appertaining: And the said J. L. for plea further saith, that on, &c. *there being then only one vacancy* in the said number of commoners or common council men of, &c. B. B. then mayor of, &c. and such of the jurats and commonalty or commoners, &c. as were willing and had a mind to be present, did upon the usual and due notice given for that purpose, in due manner meet and assemble themselves together in, &c. and being then and there so met and assembled together as aforesaid did in due manner elect him the said J. L. then and there being one of the commonalty of the said town to be one of the commoners or common council men of the said town, and that he the said J. L. being so elected to be a commoner or common council man of, &c. did afterwards, to wit, on, &c. at, &c. before the said B. B. then and there being mayor of the said town, and the jurats and commoners or common council men of, &c. then and there present, in due form take his corporal oath upon the Holy Evangelists of

God, for the due and faithful execution and discharge of the said office of a commoner or common council man of the said town, and by virtue of his being so elected, sworn, and admitted as aforesaid, he the said J. L. then and there became and was, and ever since hath been and still is a commoner or common council man of, &c. i. e. at, &c. and by that warrant he the said J. L. for and during all the time laid and mentioned in the said information in that behalf, at, &c. hath used and exercised, and still doth there use and exercise the office of one of the commoners or common, &c. &c. for and during all the said time hath there claimed, and still doth there claim to be one of the commoners or common council men of, &c. and to have, use, and enjoy all the liberties, &c. to the said office of one of the commoners, &c. belonging and appertaining, as it was and still is lawful for him to do; without this that he the said J. L. the said office, place, liberties, and privileges in the said information mentioned, or any of them, upon our said, &c. hath usurped and did usurp in manner and form as in and by the said information is alledged against him, all and singular which said matters and things he the said J. L. is ready to verify and prove as the court shall award; whereupon he prays judgment, and that the said place, office, franchise, liberties, and privileges so by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

Replication.

And the said J. T. esquire, coroner, &c. who prosecutes in this behalf for, &c. having heard the said plea of the said J. L. in manner and form aforesaid above pleaded in bar for our, &c. saith, that for any thing by the said J. L. above in pleading alledged our said, &c. ought not to be barred from having his aforesaid action thereof maintained against him the said J. L. because protesting that the said plea of the said J. L. above pleaded and the matters therein contained are not sufficient in law to preclude our said, &c. from having his aforesaid information against him the said J. L.; yet for a replication in this behalf he saith, that whenever there hath been one only vacancy in the said number of commonalty or common council men of, &c. from time whereof, &c. there hath not been nor is such ancient custom and method of electing, swearing, and admitting of a commoner or common council man of the said town, i. e. for the mayor, jurats, and commoners of the said town for the time being, or for the mayor and so many of the jurats and commoners for the time as were willing and had a mind to be present (when they thought it necessary) to meet and assemble themselves together in the said place called the Guildhall, upon notice in that behalf; and being so met and assembled together as aforesaid, that they the said mayor, jurats, and commoners, &c. and the major part of them then and there present, have for all the time aforesaid elected, and have been used and accustomed to elect, and of right may elect such person
being

being one of the commonalty of, &c. as they should and do think fit and proper to be a commoner or common council man of the said town; and that such person so elected hath for all the time aforesaid been sworn and admitted into the said office of a commoner or common council man of the said town, before the said mayor, jurats, and commoners, or common council men of, &c. then and there so met and assembled together as aforesaid, or before the mayor, jurats, and commoners or common council men at any other time met and assembled in the Guildhall of, &c. and that every person so elected, sworn, and admitted into the said office of a commoner or a common council man of, &c. as aforesaid, hath always from time whereof, &c. there had, used, and exercised, and hath been used and accustomed there to have, use, and exercise the office of one of the commoners or common council men of, &c. and hath always for and during all the time whereof the memory, &c. there had, used, and enjoyed, and hath been used and accustomed, and ought there to use and enjoy all the liberties, privileges, &c. to the said office of one of the commoners or common council men of, &c. belonging and appertaining, in manner and form as the said J. L. hath in and by his said plea above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. L. doth the like: And the said coroner, &c. further saith, that on, &c. there being then only one vacancy in the number of commoners and common council men of, &c. the said B. B. the then mayor of, &c. and such of the jurats and commoners or common council men of the said town as were willing and had a mind to be present, did not upon the usual due notice given for that purpose, in due manner meet and assemble themselves together in the said place called the Guildhall, within the said town, as the said J. L. hath in and by his said plea above alledged; and this the said coroner, &c. prays may be enquired of, &c.: And the said coroner further saith, that the said mayor, jurats, and commonalty or common council men so met and assembled together as aforesaid, did not in due manner elect him the said J. L. then and there being one of the commonalty of the said town, to be one of the commoners or common council men of the said town, as the said J. L. hath in and by his said plea above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said J. L. did not before the said B. B. then and there being mayor of, &c. and the jurats and commonalty or common council men of, &c. then and there present, in due form of law take his corporal oath upon the Holy Evangelists for the due and faithful execution and discharge of the duties of the said office of a commoner and common council man of, &c. as the said J. L. hath in and by his said plea above alledged; and the said coroner and attorney of our, &c. prayeth may be, &c. and the said J. L. doth the like: And the said coroner, &c. further saith, that the said J. L. was not in due manner admitted into the said office of a commoner or common council man of, &c. as the said J. L. hath in and by his said plea above alledged; and this the said coroner, &c. prays

may be enquired of, &c. and the said J. L. doth the like: And the said coroner, &c. further saith, that the said J. L. was not nor is a commoner or common council man of the said town in manner and form as the said J. L. hath in and by his said plea above alledged; and this the said coroner, &c. prays, &c.

Pleas before our lord the king at Westminster, of Trinity term,
24. George III. &c.

Among the pleas of the king.

ROLL.

REX
against

COVENTRY, to

} wit. Be it remembered

DIXON, FREEMAN OF COVENTRY. } that J. T. esquire, coroner, &c. who prosecutes for, &c. in his proper person cometh here into the court, &c. at W. on, &c. and for our, &c. at the relation of C. L. of, &c. according to the form of, &c. brings here into the court of our said lord the king, &c. a certain information in the nature of a *quo warranto* against J. D. late of, &c. taylor, which said information followeth in these words, *i. e.* Coventry to wit: Be it remembered that J. T. coroner, &c. who for, &c. in his proper person cometh, &c. at W. on, &c. and for, &c. at the relation of, &c. according to the form, &c. giveth the court here to understand and be informed, that the city of C. is an ancient city, and that the mayor, bailiffs, and commonalty of the said city now are, and for the space of ten years now last past and upwards have been one body politic and corporate in deed, fact, and name, by the name of the mayor, bailiffs, and commonalty of the city of C. *i. e.* at, &c. and that within the said city for and during all the time aforesaid there have been and ought to have been, and still of right ought to be a mayor, ten aldermen, and an indefinite number of freemen of the said city, *i. e.* at, &c.; and that the place and office of a freeman of, &c. for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of, &c. and the administration of public justice within the same city, *i. e.* at, &c.; and that J. D. late, &c. on, &c. at, &c. used and exercised, and from thence continually afterwards until the time of exhibiting this information hath there used and exercised, and still doth there use and exercise, without any legal warrant, &c. the place and office of a freeman of the said city, and for and during all the time last above mentioned hath there claimed, and still doth there claim, without any legal warrant, &c. to be a freeman of, &c. and to have and enjoy all the liberties, privileges, and franchises to the said place and office of a freeman of the said city belonging and appertaining, which said place, office, franchise, liberties, &c. to the said J. D. for and during all the time last above mentioned, upon our, &c. without any legal, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of
out,

Information *quo warranto*. Defendant usurps the office of freeman of Coventry.

our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. D. in this behalf to make him answer to our, &c. and shew by what authority he claimeth to have, use, and enjoy the place, office, franchise, liberties, &c. aforesaid; wherefore the sheriffs of the said county of C. are commanded that they cause him to answer to our lord the king touching and concerning the premises aforesaid.

And now, to wit, on, &c. before our, &c. at Westminster, cometh the said J. D. by A. B. his attorney, and having heard the said information read says, that under colour of the premises contained in the said information he is greatly troubled, and that by no means justly, because protesting that the matters therein contained are not sufficient in law, and that he need not, nor is he obliged by law to give any answer thereto; yet for plea in this behalf the said J. D. says, that he does not apprehend that our, &c. should or ought further to trouble or impeach him by reason of the premises in the said information contained, because he says, that true it is that the said city of C. is an ancient city, and that the mayor, bailiffs, and council of the said city now are, and for the space of ten years now last past and upwards have been one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and commonalty of the city of C. aforesaid, and that within the said city for and during all the time aforesaid there have been and ought to have been, and still of right ought to be a mayor, ten aldermen, and an indefinite number of freemen of the said city, to wit, at, &c. and that the place and office of a freeman of the said city for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of the said city, and the administration of public justice within the same city, to wit, at, &c. as in and by the said information is above alledged; but the said J. D. further says, that the said city of C. from time immemorial hath been an ancient city, and that the mayor, bailiffs, and commonalty of the said city for and during all the time aforesaid have been a body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and commonalty of, &c. and for and during all the time aforesaid have used, exercised, and enjoyed, and still do use, exercise, and enjoy divers liberties, privileges, and franchises, as by reason of divers charters and letters patent of divers late kings and queens of England, as by reason of divers prescriptions and customs from time immemorial used, had, and approved of within the said city, to wit, &c.: And the said J. D. further says, that from time whereof the memory of man is not to the contrary there hath been and yet is a certain ancient and laudable custom within the said city used and approved of, to wit, that every person who hath served as an apprentice for the space of seven

Plea, corporation by prescription;

and that an apprentice for

seven years is seven years in any art, trade, mystery, or manual occupation entitled to be a freeman within the said city, or the suburbs thereof, of right hath been, and of right ought to be in respect of such service admitted, sworn, and inrolled in the place and office of one of the citizens or freemen of the said city, according to the custom of the said city, and to use and enjoy all the liberties, privileges, and pre-eminences to the said place and office belonging, to wit, at, &c.:

And the said J. D. further says, that he the said J. D. served as an apprentice for seven years to one A. B. in the art, trade, and mystery of a taylor within the said city, or the suburbs thereof; and thereupon he the said J. D. after the expiration of his said apprenticeship, to wit, on, &c. was admitted, sworn, and inrolled into the place and office of one of the citizens and freemen of the said city, according to the custom of the said city, and did thereupon become and was a freeman, and entitled, and did take upon himself the office of a freeman of the said city, to wit, at, &c. and by virtue of the premises he the said J. D. on, &c. and from thence continually to the time of the exhibiting the said information was and still is a freeman of, &c. to wit, at, &c. and by that warrant he the said J. D. for and during all the time in the said information specified, at, &c. hath used and exercised, and doth there use and exercise the place and office of, &c. and for and during all the time last aforesaid hath there claimed, and still doth there claim to be a freeman of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a freeman of, &c. belonging and appertaining, as it was and is lawful for him to do; without this that the said J. D. the place, office, franchise, and privileges, or any of them, for or during all or any part of the said time in the said information mentioned, upon our said lord the king hath usurped, and still doth usurp in manner and form as in the said information is above alledged against him, all and singular which said matters and things he the said J. D. is ready to verify and prove as the court here shall award; whereupon he prayeth judgment, and that the place, office, franchise, liberties, and privileges by him claimed in form aforesaid may be allowed or adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

Replication, traverses the apprenticeship and citizenship.

And the said coroner, &c. who prosecutes for, &c. in this behalf having heard the said plea of the said J. D. in manner and form aforesaid above pleaded in bar to the said information for our, &c. says, that by any thing in that plea above alledged our said, &c. ought not to be barred from having his said information against the said J. D. because protesting that the said plea and the matters therein contained are not sufficient in law to bar our, &c. from having his aforesaid information against the said J. D. to which said plea in manner and form above pleaded the said coroner, &c. is under no necessity, nor anyways obliged by the law of the land to answer; for replication nevertheless the said coroner

coroner, &c. saith, that the said J. D. *did not serve as an apprentice for the space of seven years to the said A. B. in the art, trade, and mystery of a taylor within the said city, or the suburbs thereof,* as the said J. D. hath in his said plea in that behalf above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. D. doth the like: And the said coroner, &c. further saith, that the said J. D. *was not sworn, inrolled, or admitted into the said place and office of one of the citizens and freemen of the said city, according to the custom of the said city,* as the said J. D. hath in his said plea in that behalf above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, *that the said J. D. was not nor is a freeman of the said city,* as the said J. D. has in his said plea in that behalf above alledged; and this the said coroner, &c. prays.

The issues on this information lie on defendant, who has two issues to maintain; first, that he served an apprenticeship for seven years to the master stated in the plea; second, that by reason of that servitude he became entitled to his freedom, and was duly admitted and inrolled a freeman; the third issue, which is a consequential issue, viz. *the usurpation*; depending on the former defendant, therefore, and not the prosecutor (who has the negative of all the issues except the usurpation) must prove what is stated in the plea; and unless he does satisfactorily, the prosecutor must have a verdict, by proving his having exercised the franchise of a freeman by voting at an election, or the like. As to the first issue, I think the defendant must prove that he hath served the master named; that such master lived in the city, or suburbs of C.; service to any other as an assignment I think will not maintain the issue. Defendant must also prove that he was admitted and inrolled a freeman; the indenture of apprenticeship must be good and valid in law, on proper stamps (unless put out by public charity); the full sum given must have been inserted, and the duty paid; they must have been delivered when executed; and all things required by the stamp act must have been complied with to give them validity; otherwise, by 8. Ann, c. 9. the apprentice is either disabled to follow

his profession, or be admitted to his Opinion as to the evidence for freedom.

The prosecutor has only to combat the prosecutor, the fact of service, the regularity of admission, and to prove the exercise of the franchise: it should, therefore, be enquired if there be such a person as the master in C. or the suburbs; if defendant was an apprentice to him under valid indentures; if he served his time with him in the trade mentioned; this matter may be proved by other than the master.

By 5. G. 3. c. 46. a stamp duty is to be paid upon admission into a corporation; and where a freedom is obtained by servitude, the town-clerk, chamberlain, or other proper officer is to enter the name of such apprentice; the name and place of abode of his master; the sum paid or contracted for the trade or employment which the apprentice is to learn; the date of the indenture, &c. on forfeiture of twenty pounds. Search after these may be made in the admission book of the corporation; which search cannot be denied to any two freemen, or their agents, if demanded of the persons who have the custody of them, under the penalty of one hundred pounds, by 12. G. 3. c. 21. From what I have said, and the instructions to find it out, the necessary evidence must be easily procured to impeach the defendant's title to his freedom if it can be impeached.

CORNWALL. Be it remembered that J. T. esquire, co- Information given
roner, &c. who for our, &c. in his own proper person came here *warranto.*
into the court, &c. at, &c. on, &c. and for ever, &c. at the re-
lation of J. R. of, &c. according to the form, &c. brought into
N 4 the

Defendant u-
surps the office
of capital bur-
geses of Truro,
in Cornwall.

the court of our, &c. then there a certain information in nature of a *quo warranto* against sir F. B. late, &c. which said information followeth in these words, *i. e.* Cornwall: Be it remembered that J. T. esquire, coroner, &c. who for our, &c. in his own proper person cometh here into the court of, &c. at W. on, &c. and for our, &c. at the relation of J. R. of, &c. according to the form, &c. giveth the court here to understand and be informed, that the borough of Truro, in the county of C. is an ancient borough, and that the mayor and the burgeses of the said borough now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and the burgeses of the borough of Truro, in the county of C. *i. e.* at, &c. and that within the said borough there are, and for and during all the time aforesaid there have been and now ought to be one mayor, four aldermen, and twenty-four capital burgeses, including the mayor and aldermen of the said borough; and that the office of a capital burgeses of, &c. for and during the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, *i. e.* at the borough of T. aforesaid; and that sir F. B. late, &c. on, &c. and from thence continually afterwards to the time of exhibiting this information at the borough aforesaid, in the county aforesaid, hath there used, and still does there use and exercise, without any legal, &c. the office of a capital burgeses of the said borough, and for and during all the time aforesaid hath there claimed, and still doth there claim, without any legal warrant, &c. to be a capital burgeses of, &c. and to have, use, and enjoy all the liberties, &c. to the said place and office of a capital burgeses of, &c. belonging and appertaining, which said office, liberties, privileges, and franchises the said sir F. B. for and during all the time last aforesaid, upon our, &c. hath usurped, and still doth usurp, without any legal warrant, &c. *i. e.* at, &c. in contempt of our, &c. and to the damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law be awarded against him the said sir F. B. in this behalf to make him answer to our, &c. and shew by what authority he claimeth to have, use, and enjoy the place, office, liberties, privileges, and franchises aforesaid; wherefore the theriff of the said county of C. is commanded that he do not forbear by reason of any liberties in his bailiwick, but that he cause him to come to answer to our said, &c. touching and concerning the premises aforesaid.

Plea,

And now, at this day, *i. e.* on, &c. before our said, &c. at, W. comes the said sir F. B. by A. B. his attorney, and having heard the said information read says, that under colour of the premises contained

contained in the said information he is greatly troubled, and this by no means justly, &c. because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not, nor is he obliged by the law of the land to give any answer thereto; yet for plea in this behalf the said sir F. B. says, he does not apprehend that our, &c. should or ought any further to impeach him by reason of the premises in the said information contained, because he saith, that true it is that the the said borough of T. in the county of C. is an ancient borough, an ancient borough, and that the mayor and burgesses of the said borough now are, rough, and for the space of ten years now last past and upwards have been and are one body corporate and politic in deed, fact, and name, by the name of the mayor and burgesses of the said borough of Truro, in the said county of C. i. e. at, &c. and that within the said borough for and during all the time aforesaid there have been and nowought to be one mayor, four aldermen, and twenty-four capital burgesses, including the mayor and aldermen of the said borough, and that the office of a capital burges of, &c. for and during all the time aforesaid hath been and still is an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the same borough, i. e. at, &c. as in the said information is above alledged; but the said F. B. further says, that by letters patent under the great seal of England, bearing date at W. the twentieth day of January, in the thirty-first year of Elizabeth late queen of England, did for herself, her heirs, and successors will, ordain, constitute, and grant that the said borough of T. in the county of C. should from thenceforth for ever be a free borough of itself, and that the inhabitants of the said borough and their successors thenceforth for ever should be one body corporate and politic in deed, fact, and name, by the name of the mayor and the burgesses of, &c. and that by that name they should have perpetual succession; and the said late queen did thereby erect, make, ordain, constitute, and declare them so accordingly, declaring that by that name they should have perpetual succession, and that from thenceforth for ever there should be in the aforesaid borough twenty-four of the more discreet and honest inhabitants of the borough aforesaid, and that they should be aiding and assisting the said mayor of the borough of T. for the time being in all causes and matters touching and concerning the said borough: And the said late queen by her said letters patent did further will, ordain, and grant to the said mayor and burgesses and their successors, that from thenceforth for ever there should and might be in the said borough four men of the best and most honest of the aforesaid twenty-four capital burgesses of the said borough, who should be and should be called aldermen of the said borough, and by the major part of the said twenty-four capital burgesses of that borough annually to be chosen: And the said late queen did by her said letters patent for herself, her heirs, and successors, assign, nominate, constitute, make, and ordain

sets out the charter of queen Elizabeth, incorporated by name of mayor and burgesses.

Twenty-four capital burgesses to be called aldermen.

F. B.

F. B. an honest man, and an inhabitant of the said borough, to be the first and modern mayor of the said borough of Truro, willing that the said T. R. should be and continue in the said office of mayor of, &c. from the day of the said letters patent until the ninth day of October then next following, and from that day until another burges of the same borough should be preferred and sworn into the said office, according to the ordinances and provisions in the said letters patent after expressed and specified if the said F. B. should so long live: And the said late queen by the said letters patent did also assign, nominate, make, and ordain her beloved H. R. &c. &c. twenty-four inhabitants of the said borough, to be the first and modern capital burgeses and counsellors of the said borough, so to continue in the said office as long as they behaved themselves well in it: And the said late queen did by her letters patent assign, nominate, make, and ordain H. R. &c. &c. four of the aforesaid capital burgeses and inhabitants of the said borough, to be the first and modern aldermen of the said borough, willing that the said H. R. &c. should continue in the same office from the date of the said letters patent until the ninth of October then next ensuing, and from that day until other burgeses of the said borough should be elected and sworn into the said office of an alderman of the aforesaid borough, according to the ordinances and constitutions in the said letters patent expressed and specified, if the said H. R. should so long live: And the said late queen did by the said letters patent for herself, her heirs, and successors, will and grant to the said mayor and capital burgeses of the said borough, and their successors, that as often as and whenever it should happen that one or more of the twenty-four capital burgeses or counsellors of the same borough for the time being should die, or should reside out of the said borough, or be moved from his said office of capital burges for any cause, that then and so often it might and should be lawful to and for the capital burgeses of, &c. then surviving or remaining, or for the major part of them, of whom the mayor for the time being the said late queen willed to be one, to elect, nominate, and prefer one or more of the burgeses of the said borough in the place or places of him or them of the said capital burgeses or counsellors so happening to die or be removed; and that he or they so elected and preferred, having first taken his or their corporal oath before the mayor of, &c. for the time being, should be of the number of the twenty-four capital burgeses and counsellors of, &c. and this as often as the case should happen, as by the said letters patent now remaining of record in the high court of chancery of our, &c. at W. in the county of M. amongst other things more fully appears, which said letters patent afterwards, to wit, on the twentieth January, &c. the then mayor and burgeses of, &c. accepted, i. e. at, &c.: And the said sir F. B. further says, that long after the granting the said letters patent, to wit, on the tenth day of January, A. D. 1781, one R. J. was one of the twenty-four capital burgeses of the said borough, before that time duly elected into the

the

the said office, to wit, at, &c. and that the said R. J. so being such capital burgeses as aforesaid, afterwards, to wit, on the same day and year last aforesaid, at, &c. died: And the said F. further saith, that after the death of the said R. J. or before any burgeses of the said borough was elected, nominated, and preferred a capital burgeses of, &c. in the room of the said R. J. deceased, to wit, on, &c. J. W. gentleman, being the mayor of, together with the major part of the other capital burgeses of the said borough then surviving and remaining, in due manner met and assembled together at and in the said borough for the election of a capital burgeses of, &c. in the room of him the said R. J. deceased, in pursuance of due notice in that behalf before that time given; and being then and there so met and assembled together as aforesaid, did then and there elect, nominate, and prefer him the said sir F. then and there being a burgeses and inhabitant of, &c. to be a capital burgeses of, &c. in the room of the said R. J. deceased, to wit, at, &c.: And the said sir F. further says, that after the said sir F. was so elected, nominated, and preferred to be such capital burgeses of, &c. as aforesaid, and before he took upon himself to exercise, and did exercise the place, office, and franchise of a capital burgeses of, &c. to wit, on the same day and year last aforesaid, at, &c. he the said sir F. took the usual and proper corporal oath in that behalf appointed for the due execution of the said office of a capital burgeses of the said borough, before the said J. W. then mayor, and by virtue of the premises the said sir F. afterwards, on the same day and year last aforesaid, took upon himself the place, office, and franchise of one of the twenty-four capital burgeses of, &c. to wit, at, &c. and by reason of the premises he the said sir F. on, &c. and from thence continually afterwards to the time of exhibiting of the said information was and still is one of the capital burgeses of, &c. and by that warrant he the said sir F. for and during all the time in the said information specified hath used and exercised, and still doth use and exercise the place, office, and franchise of one of the capital burgeses of the said borough, and for and during all that time hath there claimed, and still doth claim to be one of the capital burgeses of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises to the said place, office, and franchise of one of the capital burgeses of, &c. belonging and appertaining; without this that he the said sir F. the said office, liberties, privileges, and franchises, or any of them, for and during all or any part of the time in the said information mentioned, upon our, &c. hath usurped, and still doth usurp, in manner and form as in the said information is above alledged against him; all and singular which said matters and things the said sir F. is ready to verify and prove as the court shall award; whereupon he prays judgment, and that the office, franchise, liberties, and privileges by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

And

Replication.

And the said J. T. esquire, coroner, &c. who for our, &c. having heard the said information of the said sir F. in manner and form aforesaid above pleaded in bar to the said information, for our, &c. saith, that our, &c. ought not by reason of any thing therein contained to be barred from having his aforesaid information against the said sir F. because protesting that the said plea of the said sir F. above pleaded and the matters therein contained are not sufficient in law to preclude our, &c. from having his aforesaid action against the said sir F.; for replication nevertheless in this behalf the said coroner, &c. saith, that the said R. T. in the said plea mentioned was not one of the twenty-four capital burgeses of, &c. duly elected into the said office in manner and form as the said sir F. hath in his said plea alledged; and this the said coroner prays, &c. and the said sir F. prays the like: And the said coroner, &c. further saith, that J. W. gentleman, was not mayor of the said borough in manner and form as the said sir F. hath in his said plea alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said J. W. the said supposed mayor, together with the major part of the other capital burgeses of, &c. then surviving and remaining, did not in due manner meet and assemble together at and in the said borough for the election of a capital burges of, &c. in the room of the said R. J. in manner and form as the said sir F. hath in his said plea alledged; and this, &c.: And the said coroner, &c. further saith, that due notice of the said meeting and assembly was not before the time of the said meeting and assembly in this behalf given, in manner and form as the said sir F. hath in his said plea alledged; and this, &c.: And the said coroner, &c. further saith, that the mayor of the said borough, and the major part of the other capital burgeses of the said borough, surviving and remaining, did not elect, nominate, and prefer the said sir F. to be a capital burges of the said borough, in manner and form as, &c.; and this, &c.: And the said coroner, &c. further saith, that the said sir F. was not a burges of, &c. in manner and form as, &c.; and this, &c.: And the said coroner, &c. further saith, that the said sir F. was not an inhabitant of the said borough in manner and form as, &c.; and this, &c.: And the said coroner, &c. further saith, that the said sir F. did not take the usual and proper corporal oath in that behalf appointed for the due execution of the office of a capital burges of the said borough, in manner and form as the said sir F. hath in his said plea alledged; and this, &c.: And the said coroner, &c. further saith, that the said sir F. for and during the time in the said last plea mentioned, or any part thereof, was not nor is a capital burges of, &c. in manner and form as, &c.; and this the said coroner prays be enquired of by the country, and the said sir F. prays the like.

Information *quo*
warranto. De-
fendant usurps
the office of bur-
ges of the bo-
rough of Lyme Regis in Dorsetshire.

DORSETSHIRE. Be it remembered that Sir James Burrow, knight, coroner, &c. who for, &c. in his proper person came here into the court of, &c. at W. on, &c. and for our, &c. at the relation of J. M. of the Middle Temple, &c. ac-

according to the form, &c. brought into the court of our said lord, &c. then there a certain information, in the nature of a *quo warranto*, against J. P. late, &c. which said information followeth in these words, *i. e.* Dorsetshire, to wit: Be it remembered that sir J. B. knight, coroner, &c. who for our, &c. cometh here into the court, &c. at, W. on, &c. and for our, &c. at the relation of W. M. of, &c. according to the form of, &c. giveth the court here to understand and be informed, that the borough of L. R. in the county of D. is an ancient borough, and that the burgeses of, &c. are now and for the space of ten years now last past have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses of the borough of L. R. in the county of D. *i. e.* at, &c. and that within the said borough for and during all the time aforesaid there have been and ought to be a mayor and divers, to wit, fifteen capital burgeses of, &c. besides the mayor of, &c. *i. e.* at, &c. and that the place and office of a burges of, &c. for and during all the time aforesaid hath been and still is a public office, and a place and office of great trust and pre-eminence within the said borough, touching the rule and government of the same borough, and the administration of public justice within the said borough of L. R. in the county aforesaid, and that J. P. late, &c. on, &c. at, &c. did use and exercise, and from thence continually afterwards to this time hath there used and exercised, and still doth there use and exercise, without any legal, &c. the place and office of a burges of the said borough, and for and during all the time last above mentioned hath there claimed and still doth there claim, without any legal warrant, &c. to be a burges of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the said place and office of a burges belonging and appertaining, which said place and office, liberties, and privileges he the said J. P. for and during all the time last above mentioned upon our, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. P. in this behalf, to make him answer to our, &c. and shew by what authority he claimeth to have and enjoy the place, liberties, &c. aforesaid; wherefore the sheriff of the county of D. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our, &c. concerning the premises aforesaid.

And now at this day, *i. e.* on, &c. before our, &c. at W. Plea. came the aforesaid J. P. by A. B. his attorney, and having heard the said information read says, that by reason of the premises contained in the said information he is greatly vexed, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law,

prescription corporation under different names.

Custom to hold meetings every week,

and court-leet twice in the year, where every person claiming ought to be admitted :

law, and that he need not nor is he bound by the law of the land to give any answer thereto ; yet for plea in this behalf the said J. P. saith, he doth not apprehend our, &c. will or ought further to impeach or implead him by reason of the premises in the said information contained ; because he saith, that the said borough of L. is and from time immemorial hath been an ancient borough, and that the burgessees of, &c. from time whereof, &c. have been and now are a body corporate and politic, and that during all that time there hath been, and now is, and of right ought to be a mayor of the said borough, and an indefinite number of burgessees or freemen of the said borough, *i. e.* at, &c. and that within the said borough during all the said time there have been, and still are, and of right ought to be certain of the most honest and discreet burgessees, not exceeding fifteen in number, to aid and assist the mayor of the said borough for the time being in all matters and causes respecting the same borough, and who during the same period have been called and known by various names, *i. e.* at, &c. sometimes by the name of the mayor's brethren, at other times by the name of the capital burgessees, &c. and with the mayor of, &c. have sometimes been called and known by the name of the council of the said borough, and who with the mayor of the said borough for the time being have during all the time aforesaid been, and now are, and of right ought to be the council of the said borough, for the regulation and government of the said borough, to wit, at, &c. : And the said J. P. further saith, that within the said borough there is and from time immemorial hath been a certain court, called the hustings, held and to be held once in every week in the said borough, before the mayor of the said town for the time being, or his deputy for that purpose duly appointed, and the burgessees of the said borough, being of the council of the said borough, or any of them, whereof the mayor of, &c. for the time being, or his deputy, during all the time aforesaid, hath been, and hath been used and accustomed to be, and still of right ought to be one : And the said J. P. saith, that within the said borough there are and from time whereof, &c. there hath been also a certain court leet or view of frankpledge held and to be held within and for the said borough, before the steward of the court leet and the view of frankpledge twice in every year, *i. e.* within one month after Easter, &c. in every year : And the said J. P. further saith, that either in the said court called the hustings, or in the said court leet or view of frankpledge, every person who during the time aforesaid hath claimed and been entitled to the office of a burges of the said borough, during all the time aforesaid hath been, and hath been used and accustomed to be, and still of right ought to be admitted into the said office of a burges or freeman of the said borough, and hath either in the said court called the hustings, or in the said court leet or view of frankpledge taken, and been used and accustomed to take, and still of right ought to take his corporal oath

hath for the due execution of the office of a burges or freeman of the said borough of L. R. aforesaid, in the county aforesaid: And the said J. P. further saith, that from time whereof, &c. there hath been a certain ancient and laudable custom used and approved within the said borough, i. e. that every person being the son of any freeman or burges of the said borough hath a right and is entitled upon paying a reasonable fine, and upon taking an oath well and faithfully to execute the office of a freeman of, &c. to wit, of, &c.: And the said J. P. further saith, that long before the time of exhibiting the said information, to wit, on, &c. he the said J. P. was the son of J. P. now deceased, which said J. P. in his lifetime, to wit, on, &c. and from thence until, and at the time of his death was a burges or freeman of the said borough, and that thereby and by virtue of the said custom he the said J. P. became, and was entitled, and had a right upon payment of a reasonable fine, and upon taking an oath well and faithfully to execute the office of a burges or freeman of, &c. to be admitted into the said place and office of a burges and freeman of, &c. to wit, at, &c.: And the said J. P. further saith, that being so entitled and having such right as aforesaid, he the said J. P. afterwards, at a court of hustings held on, &c. at and within the borough of, &c. before, &c. then mayor of, &c. and J. C. &c. &c. four of the council of the said borough, he the said J. P. personally appeared before the said last-mentioned court, and then and there claimed and demanded by the said custom in respect of him the said J. P. being a son of a freeman of, &c. upon payment of a reasonable fine and upon taking such oath as aforesaid, to be admitted into the place or office of a burges or freeman of the said borough; and the said J. P. afterwards, to wit, on the same day and year last aforesaid, at, &c. paid to the said G. D. the then mayor of the said borough, for the use of, &c. the sum of pounds of lawful, &c. the same being a reasonable fine for his admission into the office of a burges or freeman of, &c. and then and there at the said court of hustings so held as last aforesaid did take his corporal oath well and faithfully to execute the office of a burges or freeman of the said borough, then and there at the said last-mentioned court duly sworn into the place and office of a burges and freeman of the said borough, and was then and there a freeman of, &c. and was then and there at the said last-mentioned court, by virtue of the custom in respect of his being the son of such freeman or burges aforesaid, admitted into the said place or office of a burges or freeman of the said borough, to wit, at, &c. and by reason of the premises he the said J. P. on, &c. and from thence continually afterwards to the time of exhibiting the aforesaid information was and still is a burges of, &c.; and by that warrant he the said J. P. for and during all the time in the said information specified in that behalf, at, &c. hath there used and exercised, and still doth there use and exercise the office of a burges of, &c. and for and during all that time hath there claimed

that the son of a freeman is entitled to claim, on payment of a reasonable fine.

claimed and still doth there claim to be a burges of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a burges of, &c. belonging and appertaining, as it was and is lawful for him to do; without this that the said J. P. the office, liberties, and privileges, &c. in the said information mentioned, or any of them, for and during all or any part of the time in the said information specified, upon our, &c. hath usurped and doth usurp in manner and form as in and by the said information is above alledged against him, and all and singular which said matters and things he the said J. P. is ready to verify and prove as the court shall award; whereupon he prays judgment, and that the office, liberties, privileges, and franchises by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Replication, traversing matters of the plea.

And the said Sir James Burrows, coroner, &c. being present now here in court, and having heard the said information of the said J. P. in manner aforesaid above pleaded in bar, for our, &c. saith, that by any thing before alledged in the said plea by him the said J. P. our, &c. ought not to be barred from having his aforesaid information against him the said J. P. because protesting that the said plea by him the said J. P. in manner and form aforesaid above pleaded are not sufficient in law to bar, &c. nevertheless for replication in this behalf the said coroner, &c. saith, that within the said borough there have not been during all the time in that behalf in the said plea mentioned, nor now are, nor of right ought to be certain of the most honest and discreet burgeses of, &c. not exceeding fifteen in number, to aid and assist the mayor of, &c. for all the time being, for all the causes and matters respecting the same borough, and who during the period in that behalf in the said plea mentioned hath been called and known by various names, *i. e.* at, &c. sometimes by the name, &c. &c. and who with the mayor of the same borough for the time being have during all the time aforesaid in that behalf in the said plea mentioned been, and now are, and of right ought to be the council of the said borough, and during all the time in the regulation and government of the said borough in manner and form as the said J. P. hath by his said plea above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said J. P. doth the like: And the said coroner, &c. further saith, that there is not within the said borough, nor from time immemorial hath there been, a certain court, called the hustings, held and to be held once in every week within the said borough, before the mayor of, &c. for the time being, or his deputy for that purpose duly appointed, and the burgeses of, &c. or any three of them, whereof the mayor of, &c. for the time being, or his deputy, during all or any of the time in that behalf in the said plea mentioned hath been, and hath

hath been used and accustomed to be, and still of right ought to be one, in manner and form as the said J. P. hath in and by his said plea above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that in the said borough there is not, neither from time whereof, &c. hath there been a certain court leet or view of frankpledge held and to be held within the said borough, before the steward of the said court leet or view of frankpledge twice in every year, *i. e.* within one month, &c. in manner and form as the said J. hath by his said plea above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that every person who during the time in that behalf in the said plea mentioned hath claimed and been entitled to the office of a burges or freeman of the said borough, hath not during all the time in that behalf in the said plea mentioned, hath, or hath been used or accustomed to be, or now of right ought to be admitted into the said office of a burges or freeman of the said borough either in the said supposed court called the hustings, or in the supposed court leet or view of frankpledge, as the said J. P. hath in his said plea alledged; and this the said coroner, &c.: And the said coroner, &c. further saith, that every person who during the time in that behalf in the said plea mentioned hath claimed and been entitled to the office of a burges or freeman of, &c. have not during all the time in that behalf in the said plea mentioned either in the said supposed court called the hustings, or the said supposed court leet or view of frankpledge taken, nor been used or accustomed to take, and now of right ought to take his corporal oath for the due execution of the office of a burges or freeman of, &c. in manner and form as the said J. P. hath above alledged; and this the said coroner, &c. prays, &c.: And the said coroner further saith, there hath not been, and from time whereof, &c. any such ancient and laudable custom used and approved within the said borough, *i. e.* that any person, being the son of any freeman or burges, hath a right and is entitled upon paying a reasonable fine, and upon taking an oath well and faithfully to execute the office of a burges or freeman of the said borough, to be admitted into the said place and office of a burges or freeman of the said borough in manner and form as the said J. P. hath by his said plea above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said J. P. deceased, father of the said defendant, was not in his lifetime a burges or freeman of the said borough in manner and form as the said J. P. the defendant hath above in his said plea alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said J. P. the now defendant did not at a court of hustings in the said plea supposed to be held on, &c. at, &c. before G. D. the then mayor of, &c. and J. C. &c. &c. four of the burgesses of the council of the said borough, personally appeared before the last-mentioned court, and then and there claim and demand by virtue of the said supposed custom in respect thereof, he the

saïd J. P. the defendant being the son of the freeman of the saïd borough, upon payment of a reasonable fine and upon taking such oath in the saïd plea in that behalf mentioned to be admitted into the place and office of a freeman, &c. of &c. as the saïd J. P. hath in his saïd plea above alledged; and this, &c. wherefore, &c.: And the saïd coroner, &c. further saith, that the saïd J. P. did not pay the saïd G. D. the then mayor of, &c. for the use of, &c. the saïd sum of ten pounds of lawful money, &c. in manner and form as the saïd J. P. hath above alledged; and this the saïd coroner, &c. prays, &c.: And the saïd coroner further saith, that at the saïd supposed hustings so supposed to have been holden as last aforesaid, he did not take his corporal oath well and faithfully to execute the office of a burges or freeman of, &c. nor was at the saïd last-mentioned court duly sworn into the place and office of a burges or freeman of, &c. as he the saïd J. P. hath above in his saïd plea alledged; and this the saïd coroner, &c. prays, &c. And the saïd coroner, &c. further saith, that the saïd J. P. was not at the saïd last-mentioned supposed court, by virtue of the saïd supposed custom, and in respect of his being the son of such freeman and burges as in the saïd plea is mentioned, is supposed admitted into the place and office of a burges or freeman of the saïd borough, and this the saïd coroner, &c. prays, &c. and the saïd J. P. doth the like.

Memorandum.

DORSETSHIRE. Be it remembered that sir J. B. knight, coroner, &c. who for, &c. in his proper person came here into the court, &c. at W. on, &c. and for our, &c. at the relation of W. M. according to the form, &c. brought into the court, &c. then there a certain information, in the nature of a *quo warranto*, against W. G. late of, &c. which saïd information followeth in these words, *i. e.* Dorsetshire, to wit: Be it remembered that sir J. B. knight, coroner, &c. cometh here into the court, &c. on, &c. and for, &c. at the relation of J. M. of, &c. according to the form, &c. giveth the court to understand and be informed, that the borough of L. R. in the county of D. is an ancient borough, and that the burgeses of, &c. now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses of the borough of L. R. in the county of D. *i. e.* at, &c. and that within the saïd borough for and during all the time aforesaid there have been and ought be a mayor, to wit, fifteen capital burgeses of, &c. besides the mayor of, &c. and an indefinite number of freemen of, &c. *i. e.* at, &c. and that the place and office of a burges of, &c. for and during all the time aforesaid hath been and still a public office, and an office of great trust and pre-eminence within the saïd borough, touching the rule and government of, &c. and the administration of public justice within the saïd borough

Information *quo warranto*. Defendant usurps the office of burges of L. R. in D.

rough of, &c. and that W. G. late, &c. upon, &c. at, &c. did use and exercise, and from thence continually afterwards to this time hath there used and exercised, and still doth there use and exercise, without any legal warrant, &c. the place and office of a burghers of, &c. and for and during all the time last above mentioned hath there claimed and still doth there claim, without any legal warrant, to be a burghers of, &c. and to have, use, and enjoy all the liberties, privileges, &c. to the said place and office of a burghers of the said borough belonging and appertaining, which said place, office, liberties, privileges, and franchises he the said W. G. for and during all the time last above mentioned upon our, &c. hath usurped and still doth usurp, *i. e.* at, &c. in contempt of our, &c. and his laws, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; and the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said W. G. in this behalf, to make him answer to our, &c. and shew by what authority he claimeth to have, use, and enjoy the place, office, liberties, &c.; wherefore the said sheriff of the said county of D. was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause to come to answer to our said lord, &c. touching and concerning the premises aforesaid.

And now, *i. e.* on, &c. before our, &c. at W. comes the said Plea; W. G. by A. B. his attorney, and having heard the said information read faith, that by reason of the premises therein contained he is greatly vexed and troubled, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not nor is he obliged by the law of the land to give an answer thereto; yet for plea in this behalf faith, that he doth not apprehend that our said lord the king will or ought further to impeach or implead him by reason of the premises in the said information contained, because he faith, that the said borough of L. R. is and from time immemorial hath been an ancient town and borough, and that the burghers of the said borough from time whereof the memory of man is not to the contrary have been and now are a body corporate and politic, and that during all that time there hath been, and now is, and of right ought to be a mayor of the said borough, and an indefinite number of freemen, &c. of the said borough, *i. e.* at, &c. and that within the said borough during all the time there have been, and still are, and of right ought to be certain of the most honest and discreet burghers of, &c. not exceeding fifteen in number, to aid and assist the mayor of the said borough for the time being in all causes and matters respecting the said borough, and who during the said period have been called and known by various names, *i. e.* sometimes by the name of, &c. and who with the mayor of, &c. for the time being

an ancient borough.
rough.
Fifteen burghers
to assist the
mayor.
have

have during all the time aforesaid been, and now are, and of right ought to be the council of the said borough, for the regulation and government of, &c. to wit, at, &c. : And the said W. further saith, that within the said borough there now is and during all the time aforesaid there hath been a certain court called the hustings held and to be held once in every week in the said borough, before the mayor of, &c. for the time being, or his deputy, for that purpose duly appointed; and the burgeses of, &c. and the council of, &c. or any three of them, whereof the mayor of, &c. for the time being, or his deputy, during all the said time hath used and been accustomed to be and still of right ought to be one: And the said W. further saith, that within the said borough there is, and from time whereof, &c. there also hath been a certain court leet or view of frankpledge held and to be held within and for the said borough, before the steward of the said court leet last-mentioned, twice in every year, *i. e.* within one month, &c. in each year: And the said W. further saith, that either in the said court called the hustings, or in the said court leet or view of frankpledge every person who during the time aforesaid hath claimed and been entitled to the office of a burges or freeman of, &c. during all the time aforesaid hath been used and accustomed to be, and still of right ought to be admitted into the said office of a burges or freeman of the said borough, and hath in either the said court called the hustings, or in the said court leet or view of frankpledge, taken, and been used and accustomed to take his corporal oath for the due execution of the office of a burges or freeman of, &c. to wit, at, &c. :

Custom, that every person seized in fee, &c. have a right to be admitted burgeses on payment of a reasonable fine.

And the said W. further saith, that from the time whereof, &c. there hath been a certain ancient and laudable custom used and approved of within the said borough, that is to say, *that every person who is seised in his demesne as of a freehold, or of any greater estate of and in any houses or land situate, lying, or being within the liberty of that borough, hath a right and is entitled upon payment of a reasonable fine and upon taking an oath well and faithfully to execute the office of a burges or freeman of, &c. to be admitted into the place and office of a burges and freeman of, &c. to wit, at, &c. :* And the said W. further saith, that before the time of exhibiting the said information against him, to wit, on, &c. he the said W. was seised in his demesne as of a fee of and in a certain garden situate and being within the said borough, near unto a certain street called, &c. and by virtue of the said custom and by his being so seised as aforesaid of the said garden, he the said W. then and there became and was entitled and had a right upon payment of a reasonable fine, and upon taking an oath well and faithfully to execute the office of a burges or freeman of, &c. to be admitted into the office or place of a burges or freeman of, &c. : And the said W. further says, that being so seised as aforesaid, and being entitled and having such right as aforesaid, afterwards at a court of hustings held on, &c. at and within, &c. before

G. D.

G. D. then mayor of, &c. and J. C. &c. &c. four of the burgeses of the council of, &c. he the said W. personally appeared before the said last-mentioned court, and then and there claimed and demanded, by virtue of the said custom in respect of his the said W. being so seized of his demesne as of fee of the said garden as aforesaid, upon payment of a reasonable fine, and upon taking such oath as aforesaid, to be admitted into the place and office of a burges or freeman of the said borough; and thereupon he the said W. afterwards, to wit, on, &c. at, &c. paid unto the said G. D. being mayor of, &c. for the use of, &c. the sum of, &c. the same being a reasonable fine for his admission into the office or place of a burges or freeman of, &c. and then and there at the said court of hustings so holden as aforesaid did take his corporal oath well and truly to execute the office of a burges or freeman of, &c. and was then and there at the said last-mentioned court duly sworn into the place and office of a burges and freeman of, &c. and was then and there at the said last-mentioned court, by virtue of the said custom and in respect of his being so seized of the said garden as aforesaid, admitted into the place and office of a burges or freeman of the said borough, to wit, at, &c. and by reason of the premises he said W. in, &c. and from thence continually afterwards to the time of exhibiting the aforesaid information was and still is a burges of, &c. and by that warrant he the said W. G. for and during all the time in the said information mentioned in that behalf, at the borough of, &c. hath used and exercised, and still doth there use and exercise the office of a burges of the said borough, and for and during all that time hath there claimed and still doth there claim to be a burges of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the place and office of a burges of the said borough belonging and appertaining, as it was and is lawful for him to do; without this that he the said W. G. the said office, liberties, &c. in the said information mentioned, or any of them, for and during all or any part of the time in the said information mentioned, upon our, &c. hath usurped and still doth usurp in manner and form as in and by the said information is above alledged against him, all and singular which said matters and things he the said W. G. is ready to verify and prove as the court shall award; whereupon he prayeth judgment, and that the said office, liberties, privileges, and franchises, by him claimed as aforesaid, may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

And the said sir J. B. coroner, &c. who for, &c. being now present here in court, and having heard the said plea of him the said W. in manner and form aforesaid above pleaded in bar, for our, &c. faith, that by any thing before alledged in the said plea

Replication, traversing the whole plea.

by him the said W. our, &c. ought not to be barred from having his aforesaid information against him the said W. because protesting that the said plea by him the said W. in manner and form aforesaid above pleaded, and the matters therein contained are not sufficient in law; nevertheless for replication to the said plea in this behalf the said coroner, &c. saith, that within the said borough there have not been during all the time in that behalf in the said plea mentioned, nor now are, nor of right ought be certain of the most honest and discreet burgeses of the said borough, not exceeding fifteen in number, to aid and assist the mayor of the said borough for the time being in all causes and matters respecting the said borough, and who during the period in that behalf in the said plea mentioned have been called and know by various names, to wit, sometimes by the name of, &c. and who with the mayor of, &c. for the time being have during all the time in that behalf in the said plea mentioned been, and now are, and of right ought to be the council of the said borough, for the regulation and government of the said borough, in manner and form as the said W. hath by his said plea above alledged; and this the said coroner, &c. prays may be enquired of by the country, and the said W. doth the like: And the said coroner, &c. further saith, that there is not within the said borough, nor during all the time in that behalf in the said plea mentioned hath been a certain court called the hustings, held and to be held once in every week within the said borough, before the said mayor of, &c. for the time being, or his deputy, for that purpose duly appointed; and the burgeses of the said borough, being of the council of the said borough, or any three of them, whereof the mayor of, &c. for the time being, or his said deputy, during all the time in that behalf in the said plea mentioned hath been, and hath used and been accustomed to be, and still of right ought to be one, in manner and form as the said W. hath by his said plea above alledged; and this, &c.: And the said coroner, &c. further saith, that within the said borough there is not a court leet or view of frankpledge held and to be held within and for the said borough, before the stewards of the said court last-mentioned, twice in every year, to wit, within one month, &c. in each year, in manner and form as the said W. hath by his said plea above alledged; and this, &c.: And the said coroner, &c. further saith, that every person who during the time in that behalf in the said plea mentioned hath claimed and been entitled to the office of a burges or freeman of, &c. hath not during all the time in that behalf in the said plea mentioned been, nor hath been, nor accustomed to be, nor now of right ought to be admitted into the said office of a burges or freeman of, &c. either in the said supposed court called the hustings, or in the said supposed court leet or view of frankpledge, as the said W. hath above in his said plea alledged; and this, &c.: And the said coroner, &c. further saith, that every

every person who during the time in that behalf in the said plea mentioned hath claimed or been entitled to the office of a burges or freeman of, &c. hath not during all the time in that behalf in the said plea mentioned, either in the said supposed court called the hustings, or in the said supposed court leet or view of frankpledge, taken, or been used or accustomed to take, or now of right ought take his corporal oath for the due execution of the office of a burges or freeman of the said borough in manner and form as the said W. hath in his said plea above alledged; and this, &c. : And the said coroner, &c. further saith, that there hath not been from time whereof the memory of man is not to the contrary any such ancient and laudable custom used and approved of within the said borough, to wit, that every person who is seised in his demesne as of freehold, or of any greater estate of and in any house or land, situate, lying, and being within the said borough, hath a right and is entitled upon payment of a reasonable fine, and upon taking an oath well and faithfully to execute the office of a burges or freeman of the said borough, to be admitted into the place or office of a burges or freeman of the said borough, as the said W. hath by his said plea alledged; and this, &c. : And the said coroner, &c. further saith, that the said W. was not seised in his demesne as of fee of and in the said garden in the said plea mentioned, in manner and form as the said W. hath above in his plea alledged; and this, &c. : And the said coroner, &c. further saith, that the said W. did not at a court of hustings, by the said plea supposed to be held on, &c. at, &c. before G. D. esquire, the then mayor of, &c. and J. C. &c. &c. four of the burgesses of the council of, &c. personally appear before the said last-mentioned court, and then and there claim and demand, by virtue of the said supposed custom, in respect of his the said W. being so seised in his demesne as of fee of the said garden, as by the said plea is above supposed, upon payment of a reasonable fine, and on taking such oath as in the said plea is in that behalf mentioned, to be admitted into the place and office of a burges and freeman of the said borough, as the said W. hath in his said plea above alledged; and this, &c. : And the said coroner, &c. further saith, that the said W. did not pay to the said G. D. so being mayor of the said borough as aforesaid, for the use of, &c. the sum of ten pounds of lawful money of Great Britain, in manner and form as the said W. hath in his said plea alledged; and this, &c. : And the said coroner, &c. further saith, that the said W. did not at the said court of hustings so supposed to have been holden as last aforesaid take his corporal oath well and truly to execute the office of a burges or freeman of the said borough, nor was at the said last-mentioned supposed court duly sworn into the office of a burges or freeman of the said borough, in manner and form as the said W. hath above in his said plea in that behalf alledged; and this, &c. : And the said coroner, &c. further saith, that the said W. was not at the said last-mentioned

supposed court, by virtue of the said supposed custom, and in respect of his being so seised, as in the said plea is supposed admitted into the said office of a burges or freeman of the said borough; and this the said coroner of, &c. prays may be enquired of by the country, and the said W. doth the like.

Information *quo*
warranto. De-
fendant usurps
the office of bur-
ges of, &c. in
the county of
Cornwall.

REX
against
B. ESQUIRE.

CORNWALL, to wit. Be it re-
membered that J. B. esquire, coroner,
&c. who for our, &c. in his proper per-
son cometh here into the court of, &c. at, &c. on, &c. and for
our, &c. at the relation of J. M. of, &c. according to the form
of, &c. bringeth into the court now here a certain information,
in the nature of a *quo warranto*, against J. B. of, &c. in, &c.
which said information followeth in these words, to wit, Corn-
wall, to wit: Be it remembered that J. B. coroner, &c. in his
proper person cometh here into the court of, &c. at, &c. on, &c.
and for our, &c. at the relation of J. M. according to the form
of, &c. and giveth the court here to understand and be inform-
ed, that the borough of, &c. in the county of C. is an ancient
borough, and that the mayor and burgeses of, &c. now are, and
for the space of ten years now last past and upwards have been
and were one body corporate and politic in deed, fact, and name,
by the name of the mayor and burges of, &c. to wit, at, &c.
and that within the said borough there is, and for and during all
the time aforesaid hath been, and now ought to be a mayor
of the said borough from time to time yearly chosen and to be
chosen, and that the office of mayor of, &c. for and during
all the time aforesaid hath been and still is a public office, and
an office of great trust and pre-eminence within the said bo-
rough, touching the rule and government of the said borough,
and the administration of public justice within the same borough,
to wit, at, &c. and that J. B. of, &c. in, &c. and from thence
continually afterwards to this time, at, &c. hath used and exer-
cised and still doth there use and exercise, without any legal,
&c. the office of mayor of, &c. and for and during all the time
last above mentioned hath there claimed and still doth there claim,
without any legal, &c. to be the mayor of, &c. and to have,
use, and enjoy all the liberties, privileges, and franchises to the
office of mayor of, &c. belonging and appertaining, which said
office, liberties, &c. he the said J. B. for and during all the
time last above mentioned upon our, &c. hath usurped and still
doth usurp, to wit, at, &c. in contempt of our, &c. to the
great damage and prejudice of his royal-prerogative, and also
against his crown and dignity; whereupon the coroner, &c.
prayeth the consideration of the court here in the premises, and
that due process of law may be awarded against him the said
J. B. in this behalf, to make him answer to our, &c. and shew
by what authority he claimeth to have, use, and enjoy the office,
liberties, &c. aforesaid; wherefore the sheriff of the said county
of

of C. is commanded that he do not forbear by reason of any thing in his bailiwick, but that he cause him to come to answer to our said lord the king touching and concerning the premises aforeaid.

And now, to wit, on, &c. at, &c. before, &c. at W. cometh Plea, the said J. B. by A. B. his attorney, and having heard the said information read, he complains that under colour of the premises in the said information contained he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are insufficient in law, and that he need not nor is he obliged by the law of the land to answer thereto; yet for plea in this behalf the said J. B. saith that he doth not apprehend that our said lord the king will or ought further to impeach or implead him the said J. B. by reason of the premises in the said information specified, because he saith, that true it is that the said borough of, &c. is an ancient borough, and that the mayor and burgeses of, &c. now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor, &c. and that within the said borough there is, and during all the time aforeaid hath been, and now ought to be a mayor of, &c. from time to time yearly chosen and to be chosen, and that the office of mayor of, &c. during all the time aforeaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of the said borough, and the administration of public justice within the said borough, as by the said information is above suggested; but the said J. B. further saith, that the borough of, &c. is and from time immemorial hath been an ancient town and borough, and that the burgeses of, &c. at the time of the granting of the letters patent hereinafter mentioned were, and from time whereof the memory of, &c. have been, and now are one body corporate and politic in deed, fact, and name, to wit, at, &c. : And the said J. B. further says, that the *lady Elizabeth*, late queen of England, by her letters patent under the great seal of England, bearing date at Westminster, the fourteenth day of February, in the sixteenth year of her reign, reciting, amongst other things that her borough and town of, &c. was an ancient town and situated on the sea coast, and that the burgeses and inhabitants thereof, from the time whereof the memory of, &c. had had, held, and enjoyed rights, jurisdictions, liberties, acquittances, and privileges, and divers other customs, liberties, immunities, and jurisdictions, as well by prescription as by reason and pretext of charters, grants, and confirmations anciently made by Edward, formerly earl of Devon and his ancestors, lords of the said borough and town, to the tenants and inhabitants of the town aforeaid, and their heirs and successors, she the said late queen of her special grace, certain knowledge, and

sets out letters patent of queen Elizabeth.

INFORMATION (PLEA TO).

Constitution of
the borough

empowering the
mayor, &c. to
make statutes,
&c.

and mere motion, did by the same letters patent for herself, her heirs, and successors, amongst other things, will, ordain, and grant that the said town of, &c. should from thenceforth be a free body corporate for ever, consisting of a mayor and burgeses, inhabitants of the town aforesaid, by the name of the mayor and burgeses of, &c. and that the said mayor and burgeses of, &c. should from thenceforth be a body corporate in deed, fact, and name, by the name of the mayor and burgeses of, &c. and that the mayor and burgeses of the same borough and their successors should from thenceforth for ever be one body corporate, and one perpetual community in deed and in name, and should have perpetual succession; and the said late queen did also by the said letters patent among other things will, and for herself, her heirs, and successors grant to the said mayor and burgeses, that from thenceforth there should be twelve men of the most discreet and honest of the said borough, who should be aiding and assisting to the said mayor of, &c. for the time being in all causes and matters touching the same borough, and who should be and should be called the principal burgeses of the same borough, and should be the common council of, &c. for the making and enacting from time to time by them or the greatest part of them, with the mayor of, &c. for the time being, statutes, acts, and ordinances touching and concerning the public utility and benefit of the same borough and the inhabitants thereof for the time being, for the better government and regulation of the men, and of the causes, things, and business of the said borough for the time being; and the said late queen of England of her further grace, and of her certain knowledge, and mere motion, did by the said letters patent assign, nominate, make, and order her beloved J. F. to be the first and then modern mayor of, &c. to be sworn before her beloved subject J. B. faithfully to execute the office of mayor of, &c. until the Feast of, &c. and from that feast until another person should be elected and in due manner sworn faithfully to execute that office, and him the said J. F. did make, create, constitute, and declare to be mayor of, &c. during the term above mentioned; and the said late queen did also by her said letters patent assign, nominate, make, and ordain her beloved R. S. &c. &c. to be the twelve principal burgeses of, &c. and to be sworn upon their corporal oaths before the said J. F. the then modern mayor aforesaid, and the common council of, &c. and further the said late queen out of her great grace, and from her certain knowledge, and mere motion, among other things did will and by the same letters patent for herself, her heirs, and successors did grant to the aforesaid burgeses of, &c. that they should and might have, use, and enjoy the borough and town of, &c. with all and singular its rights, members, and appurtenances, and also all customs, liberties, privileges, franchises, immunities, exemptions, acquittances, and jurisdictions, and likewise all and singular the same such lands, tenements,

tenements, hereditaments, customs, liberties, &c. which the burgesſes of the borough of, &c. and which the tenants and inhabitants of the ſame borough or any of them, by whatſoever name or names, or by whatſoever incorporation theretofore had, held, uſed, and enjoyed, or ought to have held, uſed, and enjoyed, by reaſon of any charters or letters patent by the ſaid late queen, or by any of her progenitors, kings or queens of England, in any wiſe before then made, confirmed, or granted, or by any other lawful means, rights, customs, uſage, &c. theretofore uſed and accuſtomed, rendering and paying yearly to the ſaid late queen, her heirs, &c. the rent and farm, and other ſervices and profits to the ſame queen due and payable before the date of the ſaid letters patent, as by the ſame letters patent now remaining of record, &c. amongſt other things more fully appears, which ſaid letters patent afterwards, to wit, on, &c. in the ſixteenth year of her reign, the then mayor and burgesſes of, &c. accepted, to wit, at, &c. and by virtue of the premiſes the then mayor of, &c. have from thenceforth hitherto been and ſtill are one body corporate in deed and in name, by the name of the mayor and burgesſes of, &c.: And the ſaid J. B. further ſaith, that ever ſince the granting the ſaid letters patent hitherto the office of mayor of, &c. hath been and ſtill is an annual office, and during all that time hitherto the custom and method of electing, ſwearing, and admitting the mayor of, &c. hath been, and hath uſed, and of right ought to be in the following manner, to wit, yearly and every year on the Feaſt of, &c. in every year, the mayor and the capital and other burgesſes of, &c. for the time being, or ſo many of them as ſhould be preſent, whereof the mayor of, &c. for the time being hath been uſed and accuſtomed and of right ought to meet and aſſemble together in the town hall of, &c. amongſt other purpoſes for the election of a mayor of, &c. for the year next enſuing, at which meeting or aſſembly the then mayor of, &c. for the time being hath preſided, and hath uſed and of right ought to preſide, and at ſuch annual meeting or aſſembly ſo held as aforeſaid the then mayor and the twelve principal or capital burgesſes of, &c. or the greater part of them then preſent, hath nominated and put up, and have uſed and been accuſtomed and of right ought to nominate and put up two of the principal or capital burgesſes of, &c. out of which two capital burgesſes the mayor of, &c. for the year then next enſuing, was and ought to be choſen, and ſuch two of the principal or capital burgesſes of, &c. being ſo nominated and put up as aforeſaid, the names of the ſaid two capital burgesſes ſo nominated and put up have been thereupon reported and declared, and have been uſed and been accuſtomed and of right ought to be reported and declared by the then mayor of, &c. for the time being to all the other capital burgesſes or freemen of, &c. then preſent, as being the two capital burgesſes of the ſaid borough then nominated and put up for

Rendering the rent and farm theretofore paid.

Mode of election.

Custom of nominating two burgesſes, one of which to be mayor.

INFORMATION (PLEA TO).

for the purpose aforesaid, in order that the said then mayor and the capital and other burgesses or freemen of the said borough for the time being, or the greater part of them at such meeting, might then and there elect one of the said two capital burgesses so nominated and put up as aforesaid to be mayor of, &c. for the year then next ensuing, to wit, until the Feast of, &c. and from thenceforth until another person should be duly elected and sworn into the said office of mayor of the borough aforesaid, and thereupon the said then mayor and the capital and other burgesses of the said borough so assembled as aforesaid, or the greater part of them then present at such meeting, have then and there elected; and have used and been accustomed and of right ought to elect one of the said two capital burgesses so nominated and put up as aforesaid to be mayor of the said borough for the year then next ensuing, to wit, until, &c. and such one of the said two capital burgesses so nominated and put up as aforesaid, as have then and there had the majority of votes of the said then mayor and the capital and the other burgesses of, &c. then present and voting at such election, hath been and of right ought to have been deemed and allowed to be duly elected into the said office of mayor of, &c. and hath thereupon been sworn and admitted into that office at such meeting or assembly before his immediate predecessor, the mayor of, &c. then presiding at that assembly, and being so sworn and admitted hath thereupon become and been mayor of, &c. for the year then next ensuing, to wit, until, &c.

Averment, that
no election was
made according
to this custom ;

to wit, at, &c. : And the said J. B. further says, that on, &c. being the day for which the election of a mayor of, &c. for the year next ensuing ought of right and according to the usage and custom of the said borough to have been made within the said borough, no election was made of a mayor of, &c. and thereupon on the day next after the said Feast, to wit, on, &c. at the borough aforesaid public notice was given within the said borough for the burgesses of, &c. to meet on that day for the election of a mayor of, &c. for the year then next ensuing, pursuant to the statute in that case made and provided ; and that accordingly afterwards, on the same thirtieth day of September, in that year, between the hours of ten in the morning and two in the afternoon of that day, to wit, at eleven o'clock of the same day, at, &c. by virtue of and in pursuance of the statute, &c. *divers of the capital burgesses of, &c. together with a great number of other burgesses and freemen of the said borough, who had then and there respectively a right to vote at such election, in due manner met and assembled themselves together within the same borough, at the door of the town hall of the said borough, in order to proceed to the election of a mayor of, &c. for the year then next ensuing, to wit, at, &c. : And the said J. B. further says, that the said capital and other burgesses and freemen of the said borough, so assembled as last aforesaid, had then and there respectively a right to be present at and vote in that election, and*
were

were then and there sufficient and competent, according to the usage and constitution of the borough aforesaid, to make and complete the election of a mayor of, &c. for the year next ensuing, to wit, at, &c.: And the said J. B. further says, that at the time above mentioned, when the said capital and other burgesses were so assembled together for the cause and purpose aforesaid, the aforesaid door of the said town hall being the only door or passage into the same was locked up and fastened by some person or persons to the said burgesses unknown, whereby the said capital and other burgesses so assembled as aforesaid were then and there obstructed and hindered from entering into the said town hall, to wit, at, &c.: And the said J. B. further says, that at the aforesaid time, when the said capital and other burgesses aforesaid were so assembled as aforesaid, to wit, on, &c. at, &c. one J. C. esquire was the then and now last mayor of, &c. and that the said J. C. did not attend the said meeting or assembly of the said above mentioned capital and other burgesses of, &c. but was absent therefrom, to wit, at, &c.: And the said J. B. further says, that the said J. C. being so absent from the said meeting or assembly of the above mentioned capital and other burgesses of, &c. as aforesaid, the above-named S. B. the elder was then and there the senior capital burgess of the same borough then present at that meeting, and the nearest then present in place and office to the then mayor of, &c. and had then and there a right to be present at and to vote in that election of a mayor of, &c. for the year then next ensuing, to wit, at, &c. And the said J. B. further says, that the above mentioned door of the said town hall of the borough aforesaid, being so locked and fastened as aforesaid, the above mentioned capital and other burgesses of, &c. so assembled as aforesaid on, &c. at, &c. in due manner held the same meeting or assembly for the purpose aforesaid, and then and there proceeded to the election of a mayor of, &c. for the year then next ensuing in the public and open street of and within the said borough, at the front door of the aforesaid town hall of the said borough, before, &c. who then and there had a right to vote at that election, and who was then and there the nearest then present in place and office to the then mayor of, &c.; and as such then and there presided at that meeting or assembly, to wit, at, &c.: And the said J. B. further says, that at the meeting or assembly of the above mentioned capital and other burgesses of, &c. on, &c. at, &c. the above mentioned S. B. &c. &c. who were then and there respectively capital burgesses of the borough aforesaid, and were then and there all the capital burgesses of, &c. that were present at that meeting, did then and there nominate and put up the aforesaid J. B. and the said J. B. then being two of the capital burgesses of, &c. in order that one of those two might be then and there elected mayor of, &c. for the year then next ensuing, to wit, at, &c. and that thereupon the names of the said J. B. and S. B. were then and there openly reported and declared

and that capital burgesses met and proceeded to the town hall, but were obstructed from entering,

but proceeded to an election, at which the senior capital burgess presided in the absence of the mayor,

and that defend-
ant had a major-
ity of votes.

clared by the said S. B. to all the capital and other burges-
ses and freemen of, &c. so assembled as aforesaid as the two capital bur-
ges-
ses of, &c. then nominated and put up by all the capital bur-
ges-
ses of, &c. then present at that meeting for the purpose afore-
said, to wit, at, &c. : And the said J. B. further says, that he the
said J. B. and the said S. B. being so nominated and put up as
aforesaid, and the names of, &c. being so reported and declared
as the two capital burges-
ses of the said borough then nominated and
put up for the purpose aforesaid, the above-mentioned capital
burges-
ses and other burges-
ses of, &c. so assembled as aforesaid did
then and there, between the hours above specified, proceed to
make an election of a mayor of, &c. for the year then next en-
suing, out of the said two capital burges-
ses so nominated and put
up as aforesaid, and that in that election he the said J. B. being
one of the said two capital burges-
ses so nominated as aforesaid,
had then and there the majority of votes of the said capital bur-
ges-
ses and freemen of, &c. so assembled as aforesaid, and was then
and there in due manner chosen and elected by the said capital
and other burges-
ses and freemen so assembled as aforesaid, into
the office of mayor of the said borough for the year then next
ensuing, to wit, until, &c. and from thence until another person
should be duly elected into that office, to wit, at, &c. : And the
said J. B. further says, that after he had been so elected mayor
of, &c. and before he was admitted into or took upon himself
to execute that office, to wit, on, &c. he the said J. B. did take
his corporal oath before the said S. B. so presiding as aforesaid,
in the presence of, &c. well and truly to execute the said office
of mayor of, &c. in all things and by all things touching the
office, and was thereupon then and there admitted into the said
office of mayor of, &c. for the said year then next ensuing, to
wit, until, &c. to wit, at, &c. and by virtue of the premises, and
by force of the statute, &c. he the said J. B. afterwards, to wit,
on, &c. and continually afterwards until the exhibiting of the
said information was and still is mayor of, &c. to wit, at, &c. and
by that warrant he the said J. B. for and during all the time in the
aforesaid information in that behalf mentioned at, &c. hath used
and exercised, and still doth use and exercise the office of mayor
of, &c. and during all that time hath there claimed and yet doth
there claim to be mayor of, &c. and to have, use, and enjoy all
the liberties, privileges, and franchises to the said office of mayor
of the said borough belonging and appertaining, as it was and
still is lawful for him to do, without this that he the said J. B.
the office, liberties, &c. in the said information above men-
tioned, or any of them, hath usurped or did usurp upon our, &c.
in manner and form as in and by the said information is above
alleged against him, all and singular which said matters and
things he the said J. B. is ready to verify and prove as the court
shall award; whereupon he prays judgment, and that the said
office, liberties, &c. by him claimed in form aforesaid may be
allowed and adjudged to him, and that he may be dismissed and
discharged

discharged by the court here of and from the premises above charged upon him.

And the said J. B. esquire, coroner, &c. having heard the said plea of him the said J. B. in manner and form aforesaid above pleaded in bar for our, &c. faith, that for any thing before alledged by him the said J. B. in his said plea, our said, &c. ought not to be barred from having his aforesaid information against him the said J. B. because protesting that the said plea and the matters therein contained are not sufficient in law, and that the said coroner, &c. ought not nor is he obliged by the law to answer; for replication nevertheless in this behalf the said coroner, &c. faith, that the said burgesses of, &c. at the time of the granting of the letters patent in the plea mentioned were not, and from time whereof the memory of, &c. have been a body politic and corporate in deed, fact, and name, as the said J. B. hath by his said plea alledged, and this the said coroner, &c. prayeth may be enquired of by the country, and the said J. B. doth the like, &c.: And the said coroner, &c. further faith, that ever since the granting of the said letters patent in the plea mentioned, the custom and method of electing, swearing, and admitting of the said borough hath not been, nor hath used, nor of right ought to be that yearly and every year on, &c. the mayor and the capital and other burgesses of, &c. for the time being, or so many of them as would be present, whereof the mayor of, &c. for the time being hath of right been, and of right ought to be one, have met and assembled together, and have used and been accustomed, and of right ought to meet and assemble together in the town hall of the said borough (amongst other purposes) for the election of a mayor of the said borough for the year then next ensuing, at which meeting or assembly the then mayor of the said borough for the time being hath presided, and hath used and of right ought to preside, and at such annual meeting or assembly so held as aforesaid the then mayor and the twelve principal and capital burgesses of the same borough, or the greater part of them then and there present have nominated, and have put up, and have used and been accustomed, and of right ought to nominate and put up two of the principal or capital burgesses of, &c. out of which two capital burgesses the mayor of, &c. for the year then next ensuing was and ought to be chosen, and such two of the capital burgesses of, &c. being so nominated and put up as aforesaid, the names of the said two capital burgesses so nominated and put up have been thereupon reported and declared, and been used and accustomed, and of right ought to be reported and declared by the then mayor of, &c. to all the capital and other burgesses and freemen of, &c. then present, as being the two capital burgesses of, &c. then nominated and put up for the purpose aforesaid, in order that the said then mayor, and the capital and other burgesses or freemen of, &c. for the time being, or the greater part of them then there present at such meeting, might then and there elect

Replication, denying the plea and taking issue.

QUO WARRANTO—REPLICATION.

elect one of the said two capital burgessees so nominated and put up as aforesaid to be mayor of, &c. for the year then next ensuing, to wit, until, &c. and thereupon the said then mayor of, &c. and the capital and other burgessees so assembled as aforesaid, or the greater part of them then present at such meeting, have then and there elected and have used and been accustomed, and of right ought to elect one of the said two capital burgessees so nominated and put up as aforesaid to be mayor of the said borough for the year then next ensuing, to wit, until, &c. and such one of the said two capital burgessees so nominated and put up as aforesaid as hath been and then and there had a majority of votes of the said then mayor and the capital and other burgessees of, &c. then present and voting at such election hath been, and hath of right been deemed and allowed to be duly elected into the said office of mayor of, &c. and hath thereupon been sworn and admitted into that office at such meeting or assembly before his immediate predecessor the mayor of, &c. then presiding at that assembly in manner and form as he the said J. B. hath by his said plea to the said information above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that on the day next after the Feast of, &c. public notice was given within the same borough for the burgessees, &c. to meet on that day for the election of a mayor of, &c. for the said year then next ensuing, pursuant to the statute, &c. in manner and form as he the said J. B. by the said plea to the said information hath above alledged; and this the said coroner prays, &c.: And the said coroner, &c. further says, that the said S. B. &c. and other the burgessees and freemen did not in due manner meet and assemble themselves together in order to proceed to the election of a mayor of, &c. in manner and form as the said J. B. hath by his said plea to the said information above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said S. B. &c. and other the freemen and burgessees of, &c. supposed to be present at the said supposed assembly, were not then and there sufficient and competent to make and complete the election of a mayor of, &c. in manner and form as the said J. B. hath by his said plea to the said information above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the door of the said town hall was not locked and fastened in manner and form as, &c.; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said persons mentioned in the said plea to be present at the said supposed assembly were not then and there obstructed and prevented from entering into the said town hall in manner and form as, &c.; and this, &c.: And the said coroner, &c. further saith, that the said J. C. the then mayor, was not absent in manner and form as, &c. and this, &c.: And the said coroner, &c. further saith, that the said S. B. was not at the said assembly mentioned in the said plea by him the said J. B. the nearest then present in place and office to the then mayor of the said borough,

in

in manner and form as, &c. ; and this, &c. ; And the said coroner, &c. further saith, that the said S. B. &c. and other the persons mentioned in the said plea did not in due manner hold the said meeting or assembly for the purpose mentioned in the said plea in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said S. B. did not preside at the said meeting or assembly mentioned in the plea in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. &c. did not then and there nominate and put up the said J. B. and the said S. B. that one of them might be elected mayor of, &c. for the year then next ensuing in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. and S. B. were not then and there two of the capital burgeses of, &c. in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the names of the said J. B. and S. B. were not then and there openly reported and declared as nominated and put up for the purpose aforesaid in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. had not then and there the majority of votes in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. was not then and there in due manner chosen and elected into the place and office of, &c. in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. did not take his corporal oath before the said S. B. in manner and form as, &c. ; and this, &c. : And the said coroner, &c. further saith, that the said J. B. was not mayor of, &c. in manner and form as, &c. ; and this, &c. : therefore let a jury, &c.

THOMAS WALKER.

REX
against

PRYNN, CAPITAL BURGESS OF WEST LOOE. }
remembered that J. B. esquire, coroner, &c. for our, &c. in his proper person cometh here, &c. at Westminster, on, &c. and for our, &c. at the relation of E. H. of, &c. according to the form of, &c. and giveth the court here to understand and be informed, that the borough of P. otherwise West Looe, in the county of C. is an antient borough, and that the mayor and burgeses of, &c. now are, and for the space of ten years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses, to wit, at, &c. and that within the said borough there are, and for and during all the time aforesaid there have been, and now ought to be a mayor, twelve capital burgeses and an indefinite number of burgeses of the said borough, and that the office of a capital burges of, &c. for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-

CORN- } WALL, to wit. Be it Information *quo*
warranto, defen-
dant usurps the
office of capital
burgess of West
Looe.

QUO WARRANTO.

eminence within the said borough, touching the rule and government of, &c. and the administration of public justice within the same borough, to wit, at, &c. and that S. P. late of, &c. on, &c. and from thence continually afterwards to the time of exhibiting of this information, to wit, at, &c. hath there used and exercised, without any legal warrant, &c. the office of a capital burges of, &c. and for and during all the time last above mentioned hath there claimed and still doth there claim without any legal, &c. to be a capital burges of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a capital burges of, &c. belonging and appertaining, which said office, liberties, privileges, and franchises, he the said S. P. for and during all the time last above mentioned upon our said, &c. hath usurped, and still doth usurp, without any legal warrant, &c. to wit, at, &c. in contempt of our, &c. and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said S. P. in this behalf, to make him answer to our said, &c. and shew by what authority he claimeth to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid.

Plea

And now, to wit, on, &c. at, &c. comes the said S. P. by A. B. his attorney, and having heard the aforesaid information read, he complains that under colour in the said information contained he is greatly vexed and disquieted, and that by no means justly, because protesting that the said information and the matters therein contained are insufficient in law to compel the said defendant to answer thereto; yet for plea in this behalf the said defendant saith, that he doth not apprehend our lord the king will or ought further to impeach or implead him by reason of the premises in the said information contained, because he says that true it is that the borough of, &c. is an antient borough, and that the mayor and burgeses of, &c. now are, and for the space of time in the said information specified have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses of, &c. to wit, at, &c. and that within the said borough there are, and for and during all the time in the said information specified there have been, and now ought to be a mayor, twelve capital burgeses, and an indefinite number of burgeses of, &c. and that the office of a burges of, &c. for and during all the time in the said information specified hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of, &c. and the administration of public justice within the same borough, to wit, at, &c. as in the said information is above suggested; but the said defendant further says, that the said borough of, &c. is, and from time immemorial hath been an ancient borough and town, and that the burgeses of, &c. at the time of
the

the granting of the letters patent hereinafter mentioned were, and from time whereof, &c. have been and now are a body corporate in deed, fact, and name, and that during all the time last aforesaid there hath been and now are an indefinite number of burgesſes of, &c. to wit, at, &c. : And the ſaid defendant further ſets out the charter by letters patent of queen Elizabeth, ſaith, that the lady Elizabeth, late queen of England, by her letters patent under her great ſeal of England bearing date on the fourteenth of February, in the ſixteenth year of her reign, therein reciting that whereas her town and borough of, &c. was an ancient town ſituate upon the ſea coaſt, the burgesſes and inhabitants whereof from time immemorial had peaceably had and enjoyed certain rights, jurisdictions, liberties, acquittances, and privileges, and divers other cuſtoms, liberties, immunities, and jurisdictions, as well by preſcription as by reaſon and virtue of certain charters, grants, and confirmations then anciently granted by Edward, then formerly earl of Devon, and his anceſtors, lords of, &c. to the tenants and inhabitants of, &c. their heirs and ſucceſſors, and therein further reciting, that whereas the aforesaid town and borough by reaſon of the indigence of the inhabitants thereof was then and there fallen to decay and impoverished, as the ſaid queen had been informed from the complaint of divers of her ſubjects inhabitants of, &c. who for the reſtating and reſtoring thereof had moſt humbly beſought the ſaid late queen that ſhe would be graciously pleaſed to extend her royal favour and protection thereto, and for the better rule, government, and improvement of, &c. ſhe would be pleaſed to create, conſtitute, and make the inhabitants thereof a body corporate and politic, the aforesaid queen being therefore willing that a certain and eſta bliſhed rule for preſerving the peace within the ſame town, and for the government and order of the people within the ſame ſhould for ever hereafter be purſued, and that the ſaid town for the time to come ſhould be and continue in peace and quiet, to the terror and puniſhment of the vicious and the reward of the virtuous, and alſo that peace ſhould be preſerved and ſpeedy juſtice adminiſtered, the ſaid late queen, out of her particular favour, certain knowledge, and mere motion, for herſelf, her heirs, and ſucceſſors, by the ſaid letters patent did will, ordain, conſtitute, and grant that the ſaid town of, &c. ſhould from thenceforth for ever be a free borough corporate in deed, fact, and name, by the name of a mayor and burgesſes of, &c. and that the ſaid mayor and burgesſes of, &c. ſhould for the future for ever be one body corporate and politic in deed, fact, and name, by the name of mayor and burgesſes of, &c. and that the mayor and burgesſes of, &c. for the time being, and their ſucceſſors from thenceforth for ever ſhould be one body corporate, and one perpetual community in deed, fact, and name, and ſhould have perpetual ſucceſſion, and them the ſaid mayor and burgesſes did really and fully create, make, conſtitute, decree, and incorporate into one body corporate and politic : And the ſaid late queen by the ſaid letters patent for herſelf, her heirs, and ſucceſſors,

cessors, did grant to the aforesaid mayor and burgessees, and their successors, that for the future there should be twelve of the more discreet and honest men of, &c. who should be aiding and assisting to the said mayor of, &c. for the time being in causes and matters respecting the same borough, and who should be and should be called capital burgessees of, &c. and should be the common council of, &c. for the making of statutes, acts, and ordinances touching and concerning the public utility and benefit of the same borough and the inhabitants thereof for the time being, by them or the major part of them, with the mayor of, &c. for the time being, from time to time to be made for the better rule and government of the men, causes, things, and business of the said borough for the time being: And the said late queen by the said letters patent did also nominate, appoint, and ordain her beloved R. S. &c. &c. to be twelve capital burgessees of, &c. and that they should take their corporal oath before J. F. the then modern mayor of, &c. the common council within the said borough: And the said late queen by the said letters patent did make, create, constitute, and declare the said twelve capital burgessees of, &c. to be the common council of, &c.: And the said late queen out of her more abundant favour, certain knowledge, and mere motion, by the said letters patent for herself, her heirs, and successors, did grant to the aforesaid mayor and burgessees of, &c. and their successors, that it should and might be lawful for the said mayor and burgessees, and their successors, to have, hold, and appoint a certain council house within the same borough, as well for the holding their assemblies and meetings therein as also for the holding all and all manner of pleas, matters, causes, things, and businesses whatsoever therein from to time as to them should seem necessary and convenient: And the said late queen by the said letters patent willed, and for herself, her heirs, and successors, out of her special favour, and of her certain knowledge and mere motion, granted to the aforesaid mayor and burgessees, and their successors that so often and whensoever it should happen that any burgessees of, &c. for the time being should die or go to reside out of the said borough, or should for any cause be removed from his office of a burgessees of, &c. that then and so often it should and might be lawful for the mayor and capital burgessees of, &c. for the time being, or the major part of them from time to time, when they should think proper and see it expedient so to do, within eight days next after the death or removal of such burgessees, to assemble themselves together in the aforesaid house or some other convenient place at their pleasure, and there should nominate and elect one or more other persons then inhabitants of, &c. then being inhabitants of, &c. to be a burgessees or burgessees of, &c. during his or their life, and that every person so nominated and elected from the time of such election should be a burgessees or burgessees of, &c. during his or their life or otherwise, if it should so seem to the mayor and other burgessees of, &c.

for

for the time being, to be good and expedient, and that every person so nominated and elected, and to be nominated and elected into the office of a burges of, &c. should take his corporal oath before the mayor of, &c. well and truly to execute the office of a capital burges of, &c. : And the said late queen of her further favour, and of her certain knowledge and mere motion, willed, and by the said letters patent for herself, her heirs, and successors, granted to the aforesaid mayor and burgeses of, &c. and their successors, that they should have, use, and enjoy, and might have, use, and enjoy the borough and town of, &c. aforesaid, with all and singular its members and appurtenances, and also all customs, privileges, liberties, franchises, immunities, exemptions, acquittances, and jurisdictions, and also all and singular the same, and such lands, tenements, and hereditaments, &c. &c. which the burgeses of, &c. and which the tenants and inhabitants of, &c. or any of them, or any other person, by whatsoever name or names, or by what incorporations or incorporation theretofore had, holden, used, and enjoyed by virtue of any charter or letters patent by the said late queen, or by any of her progenitors, kings of this kingdom of England, in manner theretofore made, confirmed, or granted, or in any other legal manner, right, custom, usage, privilege, prescription or title theretofore used and accustomed, yielding and paying yearly to the said late queen, her heirs, and successors, the rents and farms, and other antient services and profits due and payable to the said late queen before the date of the said letters patent, as by the same letters patent now remaining of record in the court of chancery of our, &c. at Westminster, amongst other things appears, which said letters patent afterwards, to wit, on, &c. in the sixteenth year of her reign, the then mayor and burgeses of, &c. accepted, to wit, at, &c. and by virtue thereof the mayor and burgeses of, &c. hath from thenceforth hitherto been, and still are one body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses of, &c. : And the said defendant further saith, that afterwards, to wit, on, &c. S. B. he the said S. B. then being one of the burgeses of, &c. died, to wit, at, &c. and thereupon afterwards, within eight days next after the death of the said S. B. to wit, on, &c. in pursuance of the aforesaid charter, the then mayor and capital burgeses of, &c. did assemble themselves together in a convenient place within the same borough, and then and there at such meeting or assembly the said mayor and capital burgeses, or the major part of the then burgeses of, &c. did in due manner nominate and elect him the said defendant, he the said defendant being an inhabitant of, &c. and one of the burgeses of, &c. to be one of the capital burgeses of, &c. during the term of his life, to wit, at, &c. and thereupon on, &c. the said defendant being so nominated and elected into the office of one of the capital burgeses of, &c. did in pursuance of the direction of the aforesaid charter take his corporal oath well and faithfully to execute the same office before

the then mayor of, &c. and was then and there thereupon duly admitted into, and did take himself the office of a capital burges of, &c. to wit, at, &c. and by virtue thereof the said on, &c. and from thence continually afterwards to the time of exhibiting the aforesaid information was and still is a capital burges of, &c. and that by that warrant he the said defendant for and during all the time in the said information above specified at, &c. hath used and exercised, and still doth there use and exercise the office of a capital burges of, &c. and for and during all that time hath there claimed, and still doth there claim to be a capital burges of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a capital burges of, &c. belonging and appertaining as it was and is lawful for him to do; and this he is ready to verify; wherefore he prays judgment, and that the said office, liberties, privileges, and franchises by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed by the court here of and from the premises above charged upon him, &c.

THOS. WALKER.

Information *quo*
warranto, defend-
ant usurps the
office of mayor
of the borough
of W. in the
county of Lan-
caster.

LANCASHIRE, to wit. Be it remembered that J. B. coroner, &c. at Westminster, on, &c. and for our, &c. at the relation of W. W. &c. according to the form of, &c. giveth the court here to understand and be informed, that the borough of W. in the county palatine of L. is an ancient borough, and that that the burgeses of, &c. now are, and for the space of twenty years now last past and upwards have been and were one body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the borough of W. in the county of L. at, &c. and that the office of mayor of the said borough for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said borough, touching the rule and government of, &c. and the administration of public justice within, &c. and that W. C. of the borough of W. in the county of L. upon the thirtieth day of October, &c. at, &c. did use and exercise, without any legal warrant, royal grant, or right whatsoever, the office of mayor of, &c. and for and during all the time last above mentioned did there claim, without any legal warrant, &c. to be mayor of, &c. and to have, use, and enjoy all the liberties, privileges, and franchises, he the said W. C. for and during all the time last above mentioned, upon our, &c. without any legal, &c. did usurp, to wit, in contempt of our, &c. and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner, &c. for our, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said defendant in this behalf to make him answer to our, &c. and shew by what authority he claimed to have, use, and enjoy the office, liberties, privileges, and

and franchises aforesaid; whereupon the chancellor of the aforesaid county palatine of L. or his deputy, was commanded that by his writ, under his seal of his said county palatine of L. in due manner to be issued, he should command the theriff of the county aforesaid that he the said theriff should not forbear by reason of any liberty in his bailiwick, but that he should cause him the said defendant to come to answer to our, &c. touching and concerning the premises aforesaid.

Writ directed to chancellor of the dutchy of Lancaster.

And now, to wit, on, &c. (common introduction); but the said defendant further says, that the borough of W. aforesaid is, and from time whereof the memory of, &c. hath been an ancient town and borough, and that the burgeses of the said borough during all the said time immemorial have been and still are a body corporate and politic in deed, fact, and name, and for all the time aforesaid have been called and known by the name of the mayor, bailiffs, and burgeses of, &c. to wit, at, &c.: And the said defendant further saith, that within the said borough, from time whereof the memory of, &c. there hath of right been, and of right ought to be a mayor of the said borough, who hath been elected, and of right ought to be elected into that office hereinafter mentioned, and also that within the said borough during all the said time and from time immemorial there have been, and of right ought to be two bailiffs, twelve aldermen, and two serjeants of the said borough, and that divers of the burgeses of the said borough now are called, and from time whereof the memory of, &c. have been called in burgeses, otherwise jury burgeses of the said borough, who have been elected and chosen to be such by a jury at the court leet or view of frankpledge held within and for the said borough before the mayor of, &c. for the time being, and that divers other burgeses of the said borough are called, and during all the said time immemorial have been called out burgeses, otherwise honorary burgeses of the said borough, who have been nominated and appointed to be such by the mayor of, &c. for the time being, to wit, at, &c.: And the said defendant further says, that within the said borough there is, and from time whereof the memory of, &c. there hath been a certain court leet or view of frankpledge held, and to be held within and for the said borough, before the mayor of the said borough for the time being once in every year, to wit, on, &c. in each year; at which court leet the bailiffs, aldermen, and burgeses of the said borough, or so many of them as would attend and be present have from time to time of right attended, and have been lawfully entitled and accustomed to attend and be present; and that within the said borough there is, and during all the time whereof the memory of, &c. there hath been a certain ancient and laudable custom there uted and approved of to wit, that the in burgeses of, &c. being inhabitants of, and paying scot and lot within the said borough, appearing and offering themselves in that behalf at the said court leet or view of frankpledge so held, and to be held within and for the said borough on, &c. and not then being

Plea.

Custom that there has been a mayor, two bailiffs, &c. and burgeses called in and out burgeses;

and that at court leet persons paying scot and lot have been impannelled on juries.

and on the vacancy of office of alderman, qualified to elect a capital burgesse to be an alderman;

bailiffs, aldermen, or serjeants, nor any of them, then being a bailiff, alderman, or serjeant of the said borough have been impannelled and sworn, and have been used and accustomed, and of right ought to be impannelled and sworn at the court to make a jury there to serve at such court leet or view of frankpledge, and to do and present all and singular such matters and things as during all the time aforesaid appertained and belonged, and of right appertained and belonged to such jury to do and present in the same court, to wit, at, &c.: And the said defendant further saith, that by the usage and custom of the said borough, from time whereof the memory of, &c. there used and approved of, no person being an alderman of the said borough hath of right been admitted, impannelled, or sworn at such court leet or view of frankpledge held and to be held within and for the said borough on, &c. in each year as aforesaid, or to make a part of the jury there to serve at such court leet or view of frankpledge so held and to be held as aforesaid: And the said defendant further says, that within the said borough of W. from time whereof the memory of, &c. in case of any vacancy of an alderman of, &c. the inhabitants of, &c. impannelled and sworn upon such jury, at such court leet or view of frankpledge so held in and for the said borough on, &c. and being inhabitants of, and paying scot and bearing lot within the said borough, and not then being bailiffs, aldermen, or serjeants of the said borough, or the major part of such jurors so qualified, impannelled, and sworn at such court leet as aforesaid, have at such court elected, and been used and accustomed, and of right ought to elect one of the burgessees of, &c. to be an alderman of, &c. in the place of such vacancy, and that by the usage and custom of, &c. from time whereof, &c. the major part of such jurors so qualified, impannelled, and sworn at such court as aforesaid, in case they have thought proper, have of right elected, and have used and been accustomed, and of right ought to elect at such court one of the burgessees so impannelled and sworn upon such jury, there to be an alderman of, &c. in the place of such vacancy as aforesaid, to wit, at, &c.: And the said defendant further says, that by the usage and custom of the said borough there used and approved of during all the said time immemorial the person so elected by the major part of such jurors to be an alderman of, &c. in the place of such vacancy as aforesaid, hath thereupon then and there become and been deemed, and hath used and accustomed, and of right ought to be deemed an alderman of, &c. to wit, at, &c.: And the said defendant doth further also say, that by the usage and custom of the said borough during the said time immemorial no person so elected to be an alderman of, &c. and happening to be impannelled upon such jury at the said court leet or view of frankpledge at the time of such his election to be an alderman last aforesaid, hath of right continued, or hath been used and accustomed to continue, or of right ought to have continued, or of right ought to continue upon such jury, or to make a part thereof, after he hath been so elected

to be an alderman of the said borough as aforesaid, to wit, at, &c.: And the said defendant further saith, that within the said borough of, &c. from time whereof the memory of, &c. the method and custom of electing, swearing, and admitting of the mayor of, &c. into the said office of mayor of, &c. hath been, and hath used and been accustomed, and of right ought to be in the manner following, to wit, during all the said time whereof the memory of, &c. the in burgesles of, &c. impannelled and sworn upon such jury at such court leet or view of frankpledge so held in and for the said borough, on, &c. and being inhabitants, and paying scot and bearing lot within the same borough, and not being then bailiffs, aldermen, or serjeants, nor any of them then being a bailiff, aldermen, or serjeant of the said borough, or the major part of such jurors so qualified, impannelled, and sworn at that court as aforesaid, have at that court on the same day elected and nominated, and have been used and accustomed, and of right ought to nominate and elect three of the aldermen of the said borough, out of which three aldermen the mayor of the said borough for the year then next ensuing was and ought to be chosen; which three persons so nominated and elected have for all the time aforesaid there been called benchers, and the said jurors, or the major part of them so qualified, impannelled, and sworn as aforesaid, during all the said time immemorial have at such court on the same day returned, and have used and been accustomed to return to the said court the several names of such three aldermen so elected and nominated benchers as aforesaid, and after such election, nomination, and return so made of the said three benchers, the then mayor, bailiffs, aldermen, and burgesles of, &c. then present at the said court so held as aforesaid, have at that court on the same day proceeded, and during all the time aforesaid have used and been accustomed, and of right ought to proceed to the election of a mayor of, &c. for the year then next ensuing out of the same three benchers so elected, nominated, or returned as aforesaid, and during all the said time immemorial such one of the said three persons so elected, nominated, and returned benchers as aforesaid, who hath had the majority of the votes and voices of the mayor, bailiffs, aldermen, and burgesles of, &c. then present at the court, and voting at such election of the mayor of, &c. hath been and hath been allowed to be duly elected, and hath been sworn and admitted into the office of mayor of, &c. for the year next ensuing, to wit, to continue in the office from thence until the then next court leet or view of frankpledge to be held in and for the said borough on, &c. then next following, and during all the time aforesaid the person so elected to be mayor of, &c. before he hath been admitted to execute the office of mayor of, &c. hath taken, and been used and accustomed, and of right ought to take his corporal oath before his immediate predecessor in that office the mayor of, &c. for the year then last preceding, well and truly to execute the office of mayor of, &c. to wit, at, &c.: And the said defendant further saith, that before the holding of the court leet or

and to elect three aldermen, one of whom to be chosen mayor, who are called benchers, who also elect the mayor.

That thirty-one persons in burgessees offered themselves to serve on jury.

Defendant elected alderman ;

and one of the three benchers

or view of frankpledge hereinafter mentioned, to wit, on, &c. at, &c. one J. A. who was then and there an alderman of the said borough, died, whereby the place of alderman of, &c. then and there became vacant, and the same continued so vacant until the election of one J. B. to be an alderman of, &c. in the place of the said J. A. hereinafter mentioned, to wit, at, &c. : And the said defendant further saith, that on Saturday, &c. a court leet or view of frankpledge was in due manner held within and for the said borough, to wit, in the common hall of the same borough before W. O. esquire, who was then and there mayor of, &c. ; at which court leet the then bailiffs and divers of the then aldermen and burgessees of the said borough attended and were present, to wit, at, &c. : And the said defendant further says, that T. W. and thirty-one others, being then and there in burgessees of, &c. inhabitants of, and paying scot and bearing lot within the said borough, and not being then bailiffs, aldermen, or serjeants, nor any of them then being a bailiff, alderman, or serjeant of, &c. appeared at the court, and then and there offered themselves to serve as jurymen, and each of them then and there respectively offered himself to serve as jurymen at that court, and were then and there at the same time impannelled and sworn to make a jury at that court, and to do and present in the same court all and every such matters and things as then belonged and appertaind to such jury to do and present ; and that the major part of such jurors so qualified, impannelled, and sworn as aforesaid, did then and there at the court on the same day, according to the usage and custom of the said borough in that behalf, elect the said J. B. to be alderman of, &c. in the place of the said J. A. then being dead as aforesaid ; and thereupon the said J. B. according to the usage and custom of, &c. then and there became and was, and from thenceforth hitherto hath been and still is an alderman of, &c. and being so elected to be an alderman of, &c. he the said J. B. did not any longer continue upon the said jury so impannelled and sworn as aforesaid, but thereupon then and there ceased to be a part of the said jury, to wit, at, &c. : And the said defendant further saith, that at the same court, on the same day after the aforesaid election of the said J. B. to be an alderman of, &c. the major part of the above named jurors so qualified, impannelled, and sworn at the court aforesaid, to wit, twenty-five of the above named jurors qualified, impannelled, and sworn at the same court as aforesaid, elected and nominated J. P. &c. and him the said defendant, who were then and there three of the alderman of, &c. to be benchers, out of which the mayor of the said borough for the year then next ensuing was to be chosen, to wit, at, &c. ; and the said major part of the above named jurors so qualified, impannelled, and sworn as aforesaid, having so elected and nominated the said three benchers above named, did thereupon at that court on the same day in due manner return to the same court the names of the said J. P. &c. and him the said defendant, the persons there elected and nominated benchers as aforesaid, as being elected

elected and nominated benchers for the purpose aforesaid, to wit,
 at, &c. : And the said defendant further says, that the said W. O.
 the then mayor of, &c. and the then bailiffs, aldermen, and bur-
 gesses of, &c. that were present at the same court so held as afore-
 said, did at that court proceed in the election of a mayor of, &c. and elected may-
or by majority of
votes, &c.
 for the year then next ensuing, out of which said three ben-
 chers so nominated, elected, and returned as aforesaid; and that
 he the said defendant being then and there one of the said three
 persons so elected, nominated, and returned benchers as afore-
 said, had then and there the majority of votes or voices of the
 then mayor, bailiffs, and burgesses of, &c. that were then pre-
 sent at that court, and voted in the election of a mayor of, &c.
 for the year then next ensuing, and thereby he the said defendant
 was then and there duly elected and chosen into the said office of
 mayor of, &c. for the said year then next ensuing, to wit, to con-
 tinue in that office until the then next court leet to be held in and
 for the said borough on, &c. to wit, at, &c. : And the said de-
 fendant further says, that after he had been so elected mayor of,
 &c. and before he was admitted or took upon himself to execute
 the said office, to wit, at the same court so holden as aforesaid he
 the said defendant did take his corporal oath before the said
 W. O. the then last preceding mayor of, &c. and the then imme-
 diate predecessor of the said defendant in that office, well and
 truly to execute the office of mayor of, &c. in all things and
 by all things touching that office; and thereupon he the said de-
 fendant afterwards upon, &c. was duly admitted into, and did
 take upon himself the said office of mayor of, &c. to wit, at, &c.
 and by reason of the premises he the said defendant on, &c. and
 continually from thenceforth until, &c. being Saturday, &c. on
 which day the next court leet or view of frankpledge held within
 and for the said borough before the mayor of, &c. after the
 aforesaid election of the said defendant to be mayor of, &c. was
 holden was mayor of, &c. to wit, at, &c. and by that warrant he
 the said defendant for and during all that time mentioned in the
 said information in that behalf at, &c. did use and exercise the
 office of mayor of, &c. and during all that time there claimed to
 be mayor of, &c. and to have, use, and enjoy all the liberties,
 privileges, and franchises to the said office of mayor of, &c. then
 belonging and appertaining as it was lawful for him to do;
 without this that he the said defendant the said office, liberties,
 privileges, and franchises in the said information above mentioned,
 or any of them, did usurp upon our, &c. in manner and form as
 in the said information is above alledged against him, all and sin-
 gular which said matters and things he the said defendant is ready
 to verify and prove as the court shall award; whereupon he
 prayeth judgment, and that the said office, liberties, privileges,
 and franchises by him claimed in form aforesaid may be allowed
 and adjudged to him, and that he may be dismissed and discharged
 by the court here of and from the premises above charged upon
 him.

And

Rejoinder ad-
mits the custom,
but that bur-
gesses who had
offered them-
selves on the
jury met and
would not per-
mit one of the
benchers to en-
ter the room, but
prevented him,
and that after
such benger
was gone the
election took
place.

And the said J. B. esquire, coroner, &c. who for, &c. having heard the said plea of the said defendant in manner and form aforesaid above pleaded in bar for our, &c. faith, that for any thing by him the said defendant above in pleading alledged he ought not to be barred from having his aforesaid information against the said defendant, because protesting that the said plea of the said defendant above pleaded and the matters therein contained are not sufficient in law to preclude our, &c. from having his aforesaid information against the said defendant; yet for a replication in this behalf he saith, that true it is that the borough of W. aforesaid is, and from time whereof the memory of, &c. hath been an ancient town and borough, and that the burgeses of, &c. during all the said time immemorial have been and still are a body corporate and politic in deed, fact, and name, and all the time aforesaid have been called and known by the above mentioned name of mayor, bailiffs, and burgeses of, &c.; and that within the said borough of W. from time whereof the memory of, &c. there hath of right been and of right ought to be a mayor of, &c. who hath been elected and of right ought to be elected into that office in the manner in the said plea in that behalf first mentioned; and also that within the same borough during all the said time immemorial there have of right been and of right ought to be two bailiffs, twelve aldermen, and two serjeants of, &c. and divers of the said burgeses of, &c. now are called and from time immemorial divers burgeses of, &c. have been called *in* burgeses, otherwise jury burgeses of, &c. who have been elected and chosen to be such by the jury at a court leet or view of frankpledge held within and for the said borough before the mayor of, &c. for the time being, and that divers other burgeses of, &c. now are called, and during all the said time immemorial divers burgeses of, &c. have been called *out* burgeses, otherwise honorary burgeses of, &c. who have been nominated and appointed to be such by the mayor of the same borough for the time being; and that within the said borough there is, and from time whereof the memory of, &c. there hath been a certain court leet or view of frankpledge held and to be held within and for the said borough, before the mayor of, &c. for the time being, in manner in the said plea mentioned; at which court leet the bailiffs, aldermen, and burgeses of, &c. or so many of them as would attend and be present there have from time immemorial of right attended, and have lawfully been entitled and accustomed to attend and be present; and that within the said borough there is, and for and during all the said time whereof the memory of, &c. there hath been a certain ancient and laudable custom there used and approved of, to wit, that the *in* burgeses of, &c. and being inhabitants of, and paying scot and bearing lot within the said borough, appearing and offering themselves in that behalf at the said court leet or view of frankpledge so held and to be held in and for the said borough on, &c. and not then being bailiffs, aldermen, or serjeants, nor any of them then being a bailiff, alderman, or serjeant of, &c. have
been

been impannelled and sworn, and have used and been accustomed, and of right ought to be impannelled and sworn at that court to make a jury there to serve at such court leet or view of frankpledge, and to do and present all and singular such matters and things as during all the time aforesaid appertained and belonged, and of right appertain and belong to such jury to do and present in the same court, as the said defendant hath above by his said plea alledged; but the said coroner, &c. protesting that within the said borough from time whereof the memory of, &c. in case of any vacancy of an alderman of, &c. the in burgessees of, &c. impannelled and sworn upon such jury at such court leet or view of frankpledge so held in and for the said borough on, &c. and being inhabitants of, and paying scot and bearing lot within the same borough, and not being then bailiffs, aldermen, or serjeants of, &c. or the major part of such jurors so qualified, impannelled, and sworn at such court as aforesaid have not elected, nor have been used and accustomed to elect, nor of right ought to elect one of the in burgessees of, &c. to be an alderman of, &c. in the place of such vacancy as by the said plea is above alledged, protesting also that by the usage and custom of the said borough from time whereof the memory of, &c. the major part of such jurors so qualified, impannelled, and sworn at such court as aforesaid in case they have thought proper have not of right elected, nor have been used and accustomed, nor of right ought to elect at such court one of the in burgessees so impannelled and sworn upon such jury there to be an alderman of, &c. in the place of such vacancy as aforesaid, protesting also that by the usage and custom of the said borough there used and approved of during all the said time immemorial the person so impannelled and sworn upon such jury in the said plea mentioned, and so elected by the major part of such jurors to be an alderman of the said borough in the place of such vacancy as in the said plea is mentioned, hath not thereupon then and there become and been deemed, nor hath used and been accustomed, nor of right ought to be and be deemed an alderman of the said borough as in the said plea is above supposed, protesting also that the person so elected is not by that election immediately deprived from continuing on the same jury as by the said plea also is above supposed; the said coroner, &c. further saith, that on Saturday, &c. being the first of October, in the same year, a court leet or view of frankpledge was held within and for the same borough, to wit, in the common hall of the said borough before W. O. esquire, who was then and there the mayor of, &c. at which court leet the then bailiffs and divers divers of the then aldermen and burgessees of, &c. attended and were present; and that the said T. B. and divers others being then and there in burgessees of, &c. and inhabitants of, and paying scot and bearing lot within the same borough, and not being then bailiffs, aldermen, or serjeants, nor any of them then being a bailiff, alderman, or serjeant of, &c. then appeared at that court,

REPLICATION.

court, and there offered themselves to serve as jurymen at that court, and were then and there at the same court impannelled and sworn to make a jury to serve at that court, and to do and present all and singular such matters and things as then belonged and appertained to such jury to do and present in the same court; but the said coroner, &c. further saith, that by the said election of the said T. B. to be an alderman of, &c. as in the said plea is mentioned, the said T. B. did not thereupon then and there become an alderman of, &c. as by the said plea is above supposed; and this the said coroner, &c. prays, &c. and the said T. B. doth the like, &c. : And the said coroner, &c. further says, that the said T. B. being so elected to be an alderman of, &c. as in the same plea is mentioned, did not thereupon then and there cease to be part of the said jury in the said plea mentioned in manner and form as by the said plea is above supposed; and this the said coroner, &c. prays, &c. : And the said coroner, &c. further says, that after the said jury was so impannelled and sworn at that court leet as aforesaid, and before such time as the said jurors of that jury or any of them had begun to elect or nominate the said T. B. J. L. and him the said defendant to be benchers for the purpose in the said plea mentioned, the said jurors so impannelled and sworn at the said court leet so held as aforesaid, according to the custom of the said court and borough in that behalf, retired and went together into a certain room or chamber called the jury room in the said common hall of the said borough to transact the business of the jurors of such court, and the said T. B. then being one of the said jurors so impannelled and sworn as aforesaid, and then not being a bailiff, alderman, or serjeant of, &c. and then being and so continuing an inhabitant of, and paying scot and bearing lot within the said borough, then and there *retired* and *went* with the rest of the said jurors so impannelled and sworn upon that jury as aforesaid, into the said room or chamber called the jury chamber for the purpose aforesaid, to wit, to elect and nominate benchers for the purpose aforesaid; and the said jurors being so impannelled and sworn on that jury as aforesaid, being so retired and gone together into the said room or chamber called the jury chamber for the purpose aforesaid, the rest of the said jurors so impannelled and sworn as aforesaid, other than the said T. P. afterwards, and before the said jurors of that jury, or any of them had begun to elect or nominate the said defendant, &c. to be benchers, or any of them to be a bencher for the purpose aforesaid in the said plea mentioned, to wit, on, &c. at, &c. refused to permit, and would not nor did permit the said J. B. notwithstanding he had been and was so impannelled and sworn upon the said jury, and notwithstanding the said T. B. then and there was and continued an inhabitant of, &c. and an inhabitant of, and paying scot and bearing lot within the said borough, and was not then a bailiff, alderman, or serjeant of, &c. to continue in the said room or chamber called the jury room during the election

election and nomination of the benchers who were then and there about to be chosen for the purpose in the said plea mentioned, or to vote for such benchers or any of them, but on the contrary thereof then and there insisted that the said T. B. should not stay or continue in the said room or chamber during such election and nomination, and before the said jurors or any of them had elected or nominated, or begun to elect or nominate the defendant, &c. to be benchers, or any of them to be a bencher as in the said plea is mentioned, the said rest of the said jurors so impannelled and sworn as aforesaid then and there forced and obliged the said T. B. to go and depart out of the said room or chamber, and by means thereof the said T. B. was there forced and obliged against his will to go and depart, and did go and depart out of the said room or chamber before such time as the said defendant, &c. or any of them were or was nominated and elected benchers or bencher for the purpose in the said plea mentioned, and did not vote, but was then and there prevented by the jurors upon that jury from being present and voting at such election or nomination, and that after the said jurors had so forced and obliged the said T. B. to go and depart out of the said room or chamber as aforesaid, and after the said T. B. was by means thereof gone and departed out of the said room or chamber, the then major part of the said jury did then and there at that court and meeting, in that same room. on the same day, in the absence of the said T. B. who required to stay with them as aforesaid, elect and nominate the said defendant, &c. to be benchers for the purpose in the said plea mentioned, whereby the said defendant, &c. were not at that court duly elected or nominated to be benchers, out of which the mayor of, &c. for the year then next ensuing was to be chosen; and this the said coroner, &c. is ready to verify; wherefore he prays judgment, and that the said defendant may be convicted of the premises aforesaid in the said information mentioned, and that he may be forejudged and excluded of and from the office, liberties, privileges, and franchises aforesaid: And the said coroner, &c. further says, that the said defendant was not at the said court in the said plea for that purpose mentioned duly elected and chosen into the said office of mayor of, &c. for the year then next ensuing, to wit, to continue in that office until the then next court leet to be held in and for, &c. on, &c. then next following, as the said defendant hath in his said plea in that behalf above alledged; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said defendant was not mayor of, &c. in manner and form as the said defendant hath in his said plea in that behalf above alledged; and this, &c. and the said defendant doth the like, &c.

And the said defendant as to the said plea of the said coroner, &c. above pleaded in reply to the aforesaid plea of him the said defendant, protesting that the same replication and the matters therein

therein contained are not sufficient in law to convict him the said defendant of the premises in the said information above charged upon him, nor to remove him from the office, liberties, privileges, and franchises aforesaid, and that he need not nor is he obliged by the law of the land to answer thereto; yet for a rejoinder in this behalf the said defendant says that true it is [admits the mode of election, &c.]; but the said defendant further saith, that within the said borough of W. aforesaid, from time whereof the memory of, &c. in case of any vacancy of an alderman of, &c. the in burgessees of, &c. impannelled and sworn upon such jury at such court leet or view of frankpledge so held in and for the said borough on, &c. and being inhabitants of, and paying scot and bearing lot, have at such court leet elected and nominated, and have used and been accustomed and of right ought to elect one of the in burgessees of, &c. to be an alderman of, &c. in the place of such vacancy, and that by the usage and custom of, &c. from time whereof the memory of, &c. the major part of such jurors so qualified, impannelled, and sworn at such court as aforesaid, in case they have thought proper, have of right elected, and have used and been accustomed and of right ought to elect at such court one of the in burgessees so impannelled and sworn upon such jury there to be an alderman of, &c. in the place of such vacancy as aforesaid, and that by the usage and custom of, &c. there used and approved of during all the said time immemorial the person so elected by the major part of such jurors to be an alderman of, &c. in the place of such vacancy as aforesaid hath thereupon then and there become and been deemed, and hath been used and accustomed to and of right ought to be deemed an alderman, &c. [state the custom, that such alderman can be on the jury.—Jury impannelled and sworn, retired, elected J. B. an alderman, whereupon he ceased to be on such jury; so the rest of the jurors after his election would not suffer him to continue in the jury room during the election of benchers, or to vote and stay, and J. B. being departed, election of T. P. J. L. and defendant]; and this the said defendant is ready to verify and prove as the court shall award; wherefore he prayeth judgment, and that the said office, liberties, &c. by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Surrejoinder.

And the said J. B. esquire, coroner, &c. who for, &c. having heard the second plea of the said defendant in manner and form aforesaid pleaded by way of rejoinder read, for our, &c. protesting, that the said plea of the said defendant in manner and form as the same is above pleaded by way of rejoinder and the matters therein contained are not sufficient in law to preclude our, &c. from having his aforesaid information against the said defendant, protesting also that within the said borough of W. from time whereof the memory of, &c. in case of any vacancy of

of an alderman of the said borough, the in burgesles of the said borough impannelled and sworn upon such jury at such court leet or view of frankpledge, so held in and for the said borough on Saturday, &c. and being inhabitants of and bearing lot and paying scot, have not, &c. as by the said plea so pleaded by way of rejoinder is above supposed; protesting also that by the usage and custom of the said borough, from time whereof, &c. the major part of such jurors, &c. have not of right elected, &c. or the person so elected, &c. hath been deemed, &c. protesting also that the person so elected is not by the election immediately deprived from continuing on the said jury as by the said plea so pleaded by way of rejoinder is above supposed, the said coroner, &c. further saith, that by the said election of the said J. B. to be an alderman of, &c. as by the said plea so pleaded by way of rejoinder is mentioned, the said J. B. did not thereupon then and there become an alderman of, &c. as by the said plea is above mentioned; and this the said coroner, &c. prays, &c.: And the said coroner, &c. further saith, that the said J. B. so being elected, &c. did not thereupon cease to be a part of the said jury in the said plea mentioned, &c.; and this also the said coroner, &c. prays, &c.: And the said coroner, &c. further says, that the said major part of the said jury in the said rejoinder mentioned, in the absence of the said J. B. did not duly elect or nominate the said defendant, &c. to be benchers, as by the said rejoinder is above supposed; and this also the said coroner, &c. prays, &c. and the said defendant doth the like, &c.

PLEAS before our lord the king, at Westminster, of Trinity Term, in the thirty-first year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king defender of the faith, and so forth.

Among the pleas of the king.

ROLL.

LINCOLNSHIRE. Be it remembered that James Tem-
 pler, esquire, coroner and attorney of our present sovereign
 lord the king, in the court of our said lord the king, be-
 fore the king himself, who for our said lord the king in this
 behalf prosecutes, in his proper person came here into the court
 of our said lord the king, before the king himself, at West-
 minster; on Thursday, fifteen days of Saint Hilary last past,
 and for our said lord the king, at the relation of Caleb Edward
 Powell, of Bow-lane, in the city of London, gentleman, accord-
 ing to the form of the statute in such case made and provided,
 brought into the court of our said lord the king, before the king
 himself, then there a certain information in the nature of a
quo warranto against Joseph Douglass, of the borough of
 Grimsby, in the county of Lincoln, yeoman, which said infor-
 mation follows in these words, that is to say, Lincolnshire: Be
 it remembered that James Templar, esquire, coroner and attor-
 ney

Information *quo*
warranto; de-
 fendant usurps
 the office of
 burgeses, &c. of
 Grimsby, in the
 county of Lin-
 coln.

ney of our present sovereign lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, in his proper person cometh here into the court of our said lord the king, before the king himself, at Westminster, on Thursday, in fifteen days of Saint Hilary in this same term, and for our said lord the king, at the relation of Caleb Edward Powell, of Bow-lane, in the city of London, gentleman, according to the form of the statute in such case made and provided, gives the court here to understand and be informed, that the town of Grimsby, in the county of Lincoln, is an ancient town and borough, and that the mayor and burgeses of the said town now are, and for the space of ten years now last past and upwards have been, and long before were a body corporate and politic in deed, fact, and name, by the name of the mayor and burgeses of the town of Grimsby, in the county of Lincoln, that is to say, at the borough aforesaid, in the said county of Lincoln: And the said coroner and attorney of our said lord the king, for our said lord the king, gives the court here further to understand and be informed, that for and during the whole time aforesaid there have been an indefinite number of burgeses or freemen within and for the said town, and that the office of a burges or freeman of the said town is, and for and during the whole time aforesaid hath been a public office, and a place and office of great trust and pre-eminence within the said town, touching the rule and government of the said town and the administration of public justice within the same, that is to say, at the borough aforesaid, in the said county of Lincoln, and that Joseph Douglass, of the borough aforesaid, in the county aforesaid, yeoman, on the nineteenth day of June, in the year of Our Lord 1790, at the borough aforesaid, in the said county of Lincoln, did use and exercise, and from thenceforth continually afterwards to the time of exhibiting this information at the borough aforesaid hath there used and exercised and yet doth there use and exercise, without any legal warrant, royal grant, or right whatsoever, the office of a burges or freeman of the said town, and for and during all the time last above mentioned hath there claimed and yet doth there claim, without any legal warrant, royal grant, or right whatsoever, to be one of the burgeses or freemen of the said town, and to have, use, and enjoy all the liberties, privileges, and franchises to the said place and office of a burges or freeman of the said town belonging and appertaining, which said office, liberties, privileges, and franchises he the said, Joseph Douglass for and during all the time last aforesaid upon our said present sovereign lord the now king hath usurped and still doth usurp, that is to say, at the borough aforesaid, in the county aforesaid, in contempt of our said present sovereign lord the king, and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner and attorney of our said lord the king, for our said lord the king, prayeth the consideration of the court here in the premises, and that due process of law

law may be awarded against him the said Joseph Douglas in this behalf, to make him answer to our said lord the king, and shew by what authority he claimeth to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid; wherefore the sheriff of the said county of Lincoln was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our said lord the king touching and concerning the premises aforesaid.

And now at this day, that is to say, on Friday next after the Plea-morrow of the Holy Trinity, in this same term, before our lord the king at Westminster, comes the said Joseph Douglass, by Gabriel Lepipre, his clerk in court, and having heard the said information read, the said Joseph Douglass says, that by reason of the premises in the said information contained he is greatly troubled, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not nor is he bound by the law of the land to give any answer thereto; yet for plea in this behalf the said Joseph Douglass saith, that he does not apprehend our said lord the king will or ought further to impeach or implead him by reason of the premises in the said information contained, because he saith, that the town and borough of Grimsby, in the county of Lincoln, is and fromtime immemorial hath been an ancient town and borough, and that the mayor and burgeses of the said borough, from time whereof the memory of man is not to the contrary hitherto have been and now are a body corporate and politic, and that during all that time there hath been, and now is, and of right ought to be a mayor of the said borough and an indefinite number of burgeses or free-men of the said borough, to wit, at the borough of Grimsby aforesaid, in the said county of Lincoln, and that within the said borough during all the time aforesaid there have been, and of right ought to have been, and still are, and of right ought to be certain of the most honest and discreet burgeses of the said borough, to aid and assist the mayor of the said borough for the time being in all causes and matters respecting the same borough, and who during all the time aforesaid have been called or known by the name of the aldermen of the said borough, and also certain others of the most honest and discreet burgeses of the said borough in like manner to aid and assist the mayor for the time being of the said borough, and who during all the time aforesaid have been called or known by the name of the common council men of the said borough, to wit, at the borough of Grimsby aforesaid, in the said county of Lincoln: And the said Joseph further says, that within the said borough there now is and from time immemorial hath been a certain court called the mayor's court, holden and to be holden within the said borough, on Tuesday in every week, to wit, at the borough of Grimsby aforesaid, in the said county of Lincoln: And the said Joseph further says, that within the said borough there is and from time

Corporation by prescription.

Mayor and indefinite number of burgeses.

Assistant burgeses, called aldermen.

Mayor's court and full court.

time immemorial hath been a certain other court called a full court holden and to be holden within the said borough, before the mayor of the said borough for the time being, and the aldermen and common council men of the said borough for the time being, or the major part of them (the mayor being one), and other the burgeses or freemen of the said borough, on such days and so often as to the mayor of the said borough for the time being hath seemed meet, upon a general notice to be therefore given by the said mayor to the said aldermen, common council men, and other the burgeses or freemen of the said borough for the time being, resident within the said borough, to wit, at the borough aforesaid, in the county aforesaid:

Burgeses admitted into either mayor's or full court.

And the said Joseph further saith, that during all the time aforesaid all persons claiming and being entitled to the office of a burges or freeman of the said borough have been and have been used and accustomed to be admitted into the office of a burges or freeman of the said borough, either in such first-mentioned court called the mayor's court, or in such secondly above mentioned court called a full court, as follows, that is to say, all persons claiming and being entitled to the office of a burges or freeman of the said borough, and offering themselves and requesting to be admitted into the office of a freeman or burges of the said borough at such first-mentioned court called the mayor's court, for all the said time immemorial until the sixteenth

Bye-law to admit in full court.

day of January 1738, when by a certain bye-law or pretended bye-law of the said corporation, it was ordered that no person whatsoever should be admitted to their freedom of the said borough, but at a full court had been and were used and accustomed to be admitted into the office of a burges or freeman of the said borough, at the said court called the mayor's court, and all persons claiming and being entitled to the office of a burges or freeman of the said borough, and offering themselves and requesting to be admitted into the office of a freeman or burges of the said borough at such secondly above mentioned court called a full court, for all the said time immemorial have been and have been used and accustomed to be admitted into the office of a burges or freeman of the said borough in the said court called a full court, by the mayor, aldermen, and common council men of the said borough there present, or the major part of them, to wit, at the borough of Grimsby aforesaid, in the said county of Lincoln:

Custom, every person marrying daughter of freeman entitled to be admitted.

And the said Joseph further saith, that from time whereof the memory of man is not to the contrary, there hath been a certain ancient and laudable custom used and approved of within the said borough, that is to say, that every person marrying the daughter of a burges or freeman of the said borough, such daughter being born within the said town and borough, and her father being such burges or freeman of the said borough at the time of her birth, hath during all the time aforesaid been admissible and hath been admitted, and been used and accustomed and of right ought to be admitted into the place and office of a burges or freeman of the said borough, upon taking an oath well and faithfully to

to execute the office of a burges or freeman of the said borough, provided such daughter of the said freeman or burges and the person so marrying her be, and each of them be of the age of twenty-one years or upwards, to wit, at the borough of Grimsby aforesaid, in the said county: And the said Joseph further saith, Defendant married M. S. that long before the time of exhibiting the said information, to wit, on the sixteenth day of June, in the year of our Lord 1790, at the borough of Grimsby aforesaid, he the said Joseph intermarried with one Mary Skelton, which said Mary Skelton then and there was the daughter of one William Skelton, a burges or freeman of the said borough, and which said Mary was born in the said borough, and that the said William Skelton at the time of the birth of the said Mary his daughter was a burges or freeman of the said borough, to wit, at the borough aforesaid, in the county aforesaid: And the said Joseph further says, that afterwards, to wit, on the eighteenth day of June, in the year of our Lord 1790, at the borough aforesaid, in the county aforesaid, he the said Joseph and the said Mary and each of them then and there being above the age of twenty-one years, that is to say, the said Joseph of the age of twenty-two years, and the said Mary of the age of twenty-two years, he the said Joseph became and was entitled, and had a right to be admitted into the place and office of a burges or freeman of the said borough, to wit, at the said borough of Grimsby, in the said county of Lincoln: And the said Joseph further saith, that being so entitled and having such right as aforesaid, afterwards, at a certain court called a full court holden (upon general notice given in form aforesaid) on Thursday, the seventeenth day of June, in the year of our Lord 1790, and continued by adjournment to Friday the eighteenth day of the same month, at and within the borough of Grimsby aforesaid, in the said county of Lincoln, before George Woolmer, the then mayor of the said borough, and the aldermen and common council men of the said borough, or the major part of them, the mayor being one, and other the burgeses or freeman of the same borough, he the said Joseph Douglass personally appeared before the said last-mentioned court, and then and there offered himself, and requested by virtue of the said custom in respect of his the said Joseph's intermarriage with the said Mary, the daughter of a freeman of the said borough, to be admitted into the place or office of a burges or freeman of the said borough, and then and there at the said last-mentioned court so holden as aforesaid did take his corporal oath well and faithfully to execute the office of a burges or freeman of the said borough, and was then and there at the said last-mentioned court duly sworn into the place or office of a burges or freeman of the said borough: And the said Joseph was then and there at the said last-mentioned court, upon taking such oath by virtue of the said custom in respect of his marriage with the said Mary, admitted into the place and office of a burges or freeman of the said borough, by the mayor, aldermen, and common council men

By virtue of intermarriage offered himself in full court.

and by that
warrant, &c.

of the said borough, then and there present, or the major part of them, to wit, at the borough of Grimsby aforesaid, in the county aforesaid, and by reason of the premises he the said Joseph on the same day and year last aforesaid was, and from thence continually afterwards to the time of the exhibiting of the said information hath been and still is a burghess or freeman of the said borough of Grimsby, and by that warrant he the said Joseph for and during all the time in the said information specified in that behalf, at the borough of Grimsby aforesaid, hath used and exercised, and still doth use and exercise the office of a burghess or freeman of the said borough, and for and during all that time hath there claimed and still doth there claim to be a burghess or freeman of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a burghess or freeman of the said borough belonging and appertaining, as it was and is lawful for him to do; without this, that he the said Joseph the said office, liberties, privileges, and franchises in the said information mentioned, or any of them, for and during all or any part of the time in the said information specified, upon our said present sovereign lord the king hath usurped or doth usurp in manner and form as in and by the said information is above alledged against him, all and singular which said matters and things he the said Joseph Douglass is ready to verify and prove as the court shall direct; whereupon he prays judgment, and that the said office, liberties, privileges, and franchises, by him claimed in manner aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him, &c.

Replication.

And the said James Templar, esquire, coroner and attorney of our present sovereign lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecutes, having heard the plea of him the said Joseph Douglass in manner and form above pleaded to the said information of our said lord the king, saith, that our said lord the king, by reason of any thing therein contained, ought not to be barred from having and maintaining his aforesaid information against him, because protesting that the said plea and the matters therein contained are not sufficient in law to bar our said lord the king from having his aforesaid information, he saith, that true it is that the town and borough of Grimsby, in the county of Lincoln, is and from time immemorial hath been an ancient town and borough, and that the mayor and burghesses of the said borough from time whereof the memory of man is not to the contrary hitherto have been and now are a body corporate and politic, and that during all that time there hath been, and now is, and of right ought to be a mayor of the said borough and an indefinite number of burghesses or freemen of the said borough, and that within the said borough during all the time aforesaid there have been, and of right ought to have been, and still are and of right ought to be certain of the most honest
and

and discreet burgesſes of the ſaid borough to aid and aſſiſt the mayor of the ſaid borough for the time being in all cauſes and matters reſpecting the ſame borough, and who during all the time aforeſaid have been called or known by the name of the aldermen of the ſaid borough, and alſo certain others of the moſt honeſt and diſcreet burgesſes of the ſaid borough in like manner to aid and aſſiſt the mayor for the time being of the ſaid borough, and who during all the time aforeſaid have been called or known by the name of the common council men of the ſaid borough in manner and form as the ſaid Joſeph Douglaſs hath above in his ſaid plea alledged; but the ſaid coroner and attorney of our ſaid 1ſt iſſue. lord the king, for our ſaid lord the king further ſaith, that there is not and from time immemorial there hath not been a certain court called the mayor's court holden and to be holden within the ſaid borough, on Tueſday in every week, in manner and form as the ſaid Joſeph Douglaſs hath in his ſaid plea alledged; and this the ſaid coroner and attorney of our ſaid lord the king prays may be enquired of by the country, and the ſaid Joſeph Douglaſs doth the like: And the ſaid coroner and attorney of our ſaid lord 2d iſſue. the king, for our ſaid lord the king further ſaith, that there is not and from time immemorial there hath not been a certain court called a full court holden and to be holden within the ſaid borough, before the mayor of the ſaid borough for the time being, the aldermen and common council men of the ſaid borough, or the major part of them, the mayor being one, and other the burgesſes or freemen of the ſaid borough on ſuch days and ſo often as to the mayor of the ſaid borough for the time being hath ſeemed meet in manner and form as the ſaid Joſeph Douglaſs hath in his ſaid plea alledged; and this the ſaid coroner and attorney of our ſaid lord the king, for our ſaid lord the king prays may be enquired of by the country, and the ſaid Joſeph Douglaſs doth the like: And the ſaid coro- 3d iſſue. ner and attorney of our ſaid lord the king, for our ſaid lord the king further ſaith, that during all the time aforeſaid all perſons claiming and being entitled to the office of a burgeſs or freeman of the ſaid borough have not been, and have not been uſed and been accuſtomed to be admitted into the office of a burgeſs or freeman of the ſaid borough, either in ſuch firſt above ſuppoſed court called the mayor's court, or in ſuch ſecondly above ſuppoſed court called a full court, that is to ſay, all perſons claiming and being entitled to the office of a burgeſs or freeman of the ſaid borough, and offering themſelves and requeſting to be admitted into the office of a freeman or burgeſs of the ſaid borough, at ſuch firſt above ſuppoſed court called the mayor's court, for all the ſaid time immemorial until the ſixteenth day of January 1738, when by the ſaid bye law or pretended bye-law it was ordered as in the ſaid plea is ſuppoſed, have not been and were not uſed and accuſtomed to be admitted into the office of a burgeſs or freeman of the ſaid borough at the ſaid ſuppoſed court called the mayor's court, and all perſons claiming and being entitled to the office of a burgeſs or freeman of the ſaid borough, and

and offering themselves and requesting to be admitted into the office of a burghers or freeman of the said borough at such secondly above supposed court called a full court, for all the said time immemorial have not been and have not been used and accustomed to be admitted into the office of a burghers or freeman of the said borough at the said supposed court called a full court, by the mayor, aldermen, and common council men of the said borough there present, or the major part of them in manner and form as the said Joseph Douglass hath in his aforesaid plea alledged; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that from time whereof the memory of man is not to the contrary there hath not been a certain ancient and laudable custom used and approved of within the said borough, that is to say, that every person marrying the daughter of a burghers or freeman of the said borough, such daughter being born within the said town and borough, and her father being such burghers or freeman of the said borough at the time of her birth, hath during all the time aforesaid been admissible, and hath been admitted, and been used and accustomed to be, and of right ought to be admitted into the place and office of a burghers or freeman of the said borough upon taking an oath well and faithfully to execute the office of a burghers or freeman of the said borough, provided such daughter of the said freeman or burghers, and the person so marrying her be and each of them be of the age of twenty-one one years or upwards, in manner and form as the said Joseph Douglass hath in his said plea alledged; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the said Joseph did not intermarry with the said Marry Skelton in manner and form as the said Joseph hath in his said plea alledged; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the said Mary Skelton was not the daughter of one William Skelton, a burghers or freeman of the said borough, as the said Joseph hath in his said plea alledged; and this the said coroner and attorney of our said lord the king for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like: And the said coroner and attorney of our said lord the king, for our said lord the king further says, that the said William Skelton at the time of the birth of the said Mary was not a burghers or freeman of the said borough in manner and form as the said Joseph hath in his said plea alledged; and this the said coroner

4th issue.

5th issue.

6th issue.

7th issue.

coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said Joseph Douglass was not of the age of twenty-one years at the time of his supposed admission into the office and place of a burghess or freeman of the said borough, as the said Joseph Douglass hath in his said plea alledged ; and this the said coroner and attorney of our said lord the king for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said Mary was not of the age of twenty-one years at the time of the said supposed admission of the said Joseph Douglass into the office and place of a burghess or freeman of the said borough, as the said Joseph Douglass hath in his said plea alledged ; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that at a court called a full court holden before G. Woolmer, the mayor of the said borough, and the aldermen and common council men of the said borough, or the major part of them, the mayor being one, and other the burghesses or freemen of the said borough, the said Joseph Douglass did not personally appear before the said court, and offer himself and request to be admitted into the place and office of a burghess or freeman of the said borough in manner and form as he hath in his said plea alledged ; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said Joseph Douglass was not at the said court duly sworn into the office or place of a burghess or freeman of the said borough in manner and form as the said Joseph Douglass hath above in pleading alledged ; and this the said coroner and attorney of our said lord the king, for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said Joseph Douglass was not admitted into the place and office of a burghess or freeman of the said borough in manner and form as the said Joseph Douglass hath in his said plea alledged ; and this the said coroner and attorney of our said lord the king for our said lord the king prays may be enquired of by the country, and the said Joseph Douglass doth the like : And the said coroner and attorney of our said lord the king, for our said lord the king further saith, that the said Joseph Douglass hath not been nor is a burghess or freeman of the said

8th issue.

9th issue.

10th issue.

11th issue.

12th issue.

13th issue.

saïd borough of Grimsby, in manner and form as he hath in his saïd plea alledged; and this the saïd coroner and attorney of our saïd lord the king, for our saïd lord the king prays may be enquired of by the country, and the saïd Joseph Douglass doth the like.

PLEAS before our lord the king, at Westminster, of Easter Term, in the thirty-first year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland king, defender of the faith, and so forth.

Amongst the pleas of the king.

ROLL. 5.

Information *quo*
warranto; de-
fendant claims
to be burgeses of
the borough of
Newcastle un-
der Lyme, in
the county of
Stafford.

STAFFORDSHIRE. Be it remembered that James Templer, esquire, coroner and attorney of our present sovereign lord the king, in the court of our saïd lord the king, before the king himself, who for our saïd lord the king in this behalf prosecutes, in his proper person came here into the court of our saïd lord the king, before the king himself, at Westminster, on Thursday, in fifteen days of Saint Hilary last past, and for our saïd lord the king at the relation of John Wilkinson, of Carey-street, Lincoln's Inn, in the county of Middlesex, gentleman, according to the form of the statute in such case made and provided, brought into the court of our saïd lord the king, before the king himself, then here a certain information, in the nature of a *quo warranto*, against William Catterill, of Newcastle under Lyme, in the county of Stafford, plumber, which saïd information followeth in these words, that is to say, Staffordshire: Be it remembered that James Templer, esquire, coroner and attorney of our present sovereign lord the king, in the court of our saïd lord the king, before the king himself, who for our saïd lord the king in this behalf prosecutes, in his proper person comes here into the court of our saïd lord the king, before the king himself, at Westminster, on Thursday, in fifteen days of Saint Hilary in this same term, and for our saïd lord the king at the relation of John Wilkinson, of Carey-street, Lincoln's Inn, in the county of Middlesex, gentleman, according to the form of the statute in such case made and provided, gives the court here to understand and be informed, that the borough of Newcastle under Lyme, in the county of Stafford, is an ancient borough, and that the mayor, bailiffs, and burgeses of the saïd borough now are, and for the space of ten years now last past have been, and long before were a body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgeses of the borough of Newcastle under Lyme, that is to say, at Newcastle under Lyme afore said, in the saïd county of Stafford: And the saïd coroner and attorney of our saïd present sovereign lord the king, for our saïd present lord the king gives the court here further to under-

understand and be informed, that for and during the whole time aforesaid there has been an indefinite number of burgeses within and for the said borough, to wit, at Newcastle under Lyme aforesaid, in the said county of Stafford, and that the office of a burges of the said borough of Newcastle under Lyme is, and for and during the whole time aforesaid hath been a public office, and a place and office of great trust within the said borough, touching the rule and government of the said borough, that is to say, at Newcastle under Lyme aforesaid, in the said county of Stafford; and that William Catterill, of Newcastle under Lyme aforesaid, in the said county of Stafford, plumber, upon the first day of August, in the year of Our Lord 1790, at Newcastle under Lyme aforesaid, in the said county of Stafford, did use and exercise, and from thenceforth continually afterwards to the time of exhibiting this information at Newcastle under Lyme aforesaid, in the said county of Stafford, hath there used and exercised, and yet doth there use and exercise, without any legal warrant, royal grant, or right whatsoever the office of a burges of the said borough of Newcastle under Lyme, and for and during all the time last above mentioned hath there claimed and yet doth there claim, without any legal warrant, royal grant, or right whatsoever to be one of the burgeses of the said borough of Newcastle under Lyme, and to have, use, and enjoy without any legal warrant, royal grant, or right whatsoever, all the liberties, privileges, and franchises to the office of a burges of the said borough of Newcastle under Lyme, belonging and appertaining, which said office, liberties, privileges, and franchises he the said William Catterill for and during all the time last aforesaid upon our said present sovereign lord the now king hath usurped and still doth usurp, that is to say, at Newcastle under Lyme aforesaid, in the said county of Stafford, in contempt of our said present sovereign lord the king, and to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner and attorney of our said present sovereign lord the king, for our said present sovereign lord the king prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said William Catterill in this behalf, to make him answer to our said present sovereign lord the king, and shew by what warrant he claimeth to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid, in manner aforesaid; wherefore the sheriff of the said county of Stafford was commanded that he should not forbear by reason of any liberty in his bailiwick, but that he should cause him to come to answer to our said lord the king touching and concerning the premises aforesaid.

And now at this day, that is to say, on Wednesday next after Plas,
fifteen days of Easter in this same term, before our said lord the
king at Westminster, cometh the said William Catterill by
4 Henry

Sets out letters
patent of queen
Elizabeth, con-
stituting mayor,
bailiffs, and
burgesses.

Henry Dealtry his clerk in court, and having heard the said information read faith, that our said lord the king ought not any further to impeach or implead him the said William Catterill by reason of the premises in the said information mentioned, because he says, that true it is that the borough of Newcastle under Lyme, in the county of Stafford, is an ancient borough, and that the mayor, bailiffs, and burgesses of the said borough now are, and for the space of ten years now last past have been, and long before were a body corporate and politic in deed, fact, and name, by the name of the mayor, bailiffs, and burgesses of the borough of Newcastle under Lyme, and that for and during the whole time aforesaid there has been an indefinite number of burgesses within and for the said borough, and that the office of a burgess of the said borough of Newcastle under Lyme is, and for and during the whole time aforesaid hath been a public office, and a place and office of great trust within the said borough, touching the rule and government of the said borough, as in and by the said information is above alledged; nevertheless for plea in this behalf the said William Catterill says, that the said borough of Newcastle under Lyme being such ancient borough as aforesaid, the lady Elizabeth late queen of England, by her letters patent, sealed as well with her great seal of England as with the seal of her duchy of Lancaster, bearing date at Westminster, on the eighteenth day of May, in the thirty-second year of her reign, did for herself, her heirs, and successors, will, ordain, constitute, and grant, amongst other things, that the borough of Newcastle under Lyme should be and remain thereafter for ever a free borough of itself, and that the burgesses of the said borough should and might from thenceforth be one body corporate and politic in deed, fact, and name for ever, by the name of the mayor, bailiffs, and burgesses of the borough of Newcastle under Lyme, in the said county of Stafford, and that by the same name they should have perpetual succession; and she did also will, and for herself, her heirs, and successors by the said letters patent grant to the aforesaid mayor, bailiffs, and burgesses of the borough aforesaid, and their successors, that there should for ever thereafter be one mayor, two bailiffs, and twenty-four capital burgesses of the said borough, who together with the mayor and bailiffs of the said borough should be the common council of the said borough, and that certain persons in the said letters patent named respectively should be the first mayor, bailiffs, and twenty-four capital burgesses of the said borough, as by the said letters patent amongst other things more fully appears: And the said William Catterill further saith, that the said letters patent of the said queen Elizabeth afterwards, to wit, on the same day and year last aforesaid were duly accepted by the said burgesses of the said borough, to wit, at the borough aforesaid, and that the several persons in the said letters patent in that behalf respectively named then and there took upon themselves and became and were mayor, bailiffs, and twenty-four capital burgesses of the

the same borough, and that from the time of the granting and acceptance of the said letters patent, the said burgeses have been and still are a body corporate and politic by the name of the mayor, bailiffs, and burgeses of the borough of Newcastle under Lyme, in the county of Stafford, and that from thenceforth hitherto there have been and still are one mayor, two bailiffs, and twenty-four capital burgeses within the said borough, that is to say, at the borough of Newcastle under Lyme aforesaid:

And the said William Catterill further saith, that within the borough of Newcastle under Lyme aforesaid, from time whereof the memory of man is not to the contrary, every person born within the said borough, being the son of a burges duly admitted and sworn a burges of the said borough before the birth of such son, and continuing a burges of the same borough at the time of the birth of such son, has been called free born: And the said William Catterill further saith, that within the said borough there now is, and from time whereof the memory of man is not to the contrary there hath been an ancient and laudable custom there used and approved of, that is to say, that the son of every person being free born as aforesaid, such son being born within the said borough, hath on his attaining the age of twenty-one years been admissible, and of right ought to have been admitted a burges of the said borough, and from time immemorial until the granting and acceptance of the said letters patent hath on his request been accordingly admitted and sworn a burges of the said borough before the persons for the time being duly authorized in that behalf, and since the granting and acceptance of the said letters patent before the mayor, bailiffs, and capital burgeses of the said borough in common council assembled, or a major part of them, and still of right ought to be admitted and sworn a burges of the said borough before the mayor, bailiffs, and capital burgeses of the same borough in common council assembled, or a major part of them, to wit, at the borough of Newcastle under Lyme aforesaid, and from the time of his being so admitted and sworn hath always from time whereof the memory of man is not to the contrary there had, used, exercised, held, and enjoyed, and hath been used and accustomed there to have, use, exercise, hold, and enjoy the office of a burges of the same borough, to wit, at the borough of Newcastle under Lyme aforesaid: And the said William Catterill further saith, that he the said William Catterill before and at the time of his being admitted and sworn a burges of the same borough, as is herein after mentioned, was the son of one Samuel Catterill now deceased, which said Samuel Catterill was free born, that is to say, as being the son of one William Catterill now deceased, born within the said borough, which said William Catterill last named, before the time of the birth of the said Samuel Catterill, had been duly admitted and sworn a burges of the said borough, and at the time of the birth of the said Samuel Catterill within the said borough as aforesaid, continued a burges of the said borough,

Custom, for son of a burges to be free-born, and entitled at age of twenty-one years to be admitted, &c.

rough, to wit, at the borough of Newcastle under Lyme aforesaid: And the said William Catterill the defendant further saith, that the said Samuel Catterill his father being free born as aforesaid, he the said William Catterill the defendant afterwards, to wit, on the twenty-ninth day of January, in the year of Our Lord 1736, was born within the borough of Newcastle under Lyme aforesaid, and that afterwards, and before his being admitted and sworn a burges of the said borough as hereinafter mentioned, to wit, on the first day of May, in the year of Our Lord 1780, he the said William Catterill the defendant had attained his age of twenty-one years, to wit, at the borough of Newcastle under Lyme aforesaid; and that he the said William Catterill the defendant having so attained his age of twenty-one years, and being so entitled as aforesaid, afterwards, to wit, on the twenty-first day of June, in the year of Our Lord 1790, was duly admitted and sworn into the office of a burges of the said borough by and before the major part of the mayor, bailiffs, and capital burgeses of the said borough in common council assembled, to wit, at the borough of Newcastle under Lyme aforesaid, and by means of the several premises aforesaid he the said William Catterill on the same day and year last aforesaid, and continually from thence until and at the time of the exhibiting of the said information was and still is a burges of the said borough; and by that warrant he the said William Catterill, for and during all the time mentioned in the said information in that behalf at the borough of Newcastle under Lyme aforesaid, in the said county of Stafford, hath used and exercised and yet doth there use and exercise the office of a burges of the said borough, and for and during all the time last aforesaid hath there claimed and yet doth there claim to be one of the burgeses of the said borough, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of a burges of the said borough of Newcastle under Lyme belonging or appertaining, as it was and is lawful for him to do for the cause aforesaid; without this that he the said William Catterill the office, liberties, privileges, and franchises in the said information above mentioned, or any of them, upon our said present sovereign lord the now king hath usurped or still doth usurp, as in and by the said information is above alledged, all and singular which said matters he the said William Catterill is ready to verify and prove as the court here shall award; whereupon he prays judgment, and that the office, liberties, privileges, and franchises by him claimed in form aforesaid may be allowed and adjudged to him, and that he may be dismissed and discharged by the court here of and from the premises above charged upon him.

and by that
warrant, &c.

Traverses the
usurpation.

Replication.

Takes issue.

And the said James Templer, esquire, coroner and attorney of our said sovereign lord the now king, in the court of our said lord the now king, before the king himself, who for our said lord the now king in this behalf prosecutes, being now present here

in

in court and having heard the said plea of the said William Catterill in manner and form aforesaid above pleaded in bar, saith, that by reason of any thing by the said William Catterill in the same place alledged, the said lord the now king ought not to be barred from prosecuting his aforesaid information against the said William Catterill, because he says, *that* within the said borough, *First issue,* from time whereof the memory of man is not to the contrary, there hath not been nor is such ancient and laudable custom there used and approved of, that is to say, that the son of every person being free born as aforesaid, such son being born within the said borough, hath on his attaining the age of twenty-one years been admissible, and of right ought to have been admitted a burghers of the said borough, and from time immemorial until the granting and acceptance of the said letters patent, hath on his request been accordingly admitted and sworn a burghers of the said borough before the persons for the time being duly authorized in that behalf, and since the granting and acceptance of the said letters patent before the mayor, bailiffs, and capital burghesses of the said borough in common council assembled, or a major part of them, and still of right ought to be admitted and sworn a burghers of the said borough before the mayor, bailiffs, and capital burghesses of the same borough in common council assembled, or a major part of them, and from the time of his being so admitted and sworn hath always, from time whereof the memory of man is not to the contrary, there had, used, exercised, held, and enjoyed, and hath been used and accustomed there to have, use, exercise, hold, and enjoy the office of a burghers of the same borough in manner and form as the said William Catterill hath above in that behalf by his said plea alledged; and this the said coroner and attorney of our said lord the now king, for our said lord the now king, prays may be enquired of by the country, and the said William Catterill doth the like: And the said coroner and at- *Second issue,* torney of our said lord the now king, for our said lord the now king, further saith, that the said William Catterill was not duly admitted and sworn into the office of a burghers of the said borough by and before the major part of the mayor, bailiffs, and capital burghesses of the said borough in common council assembled in manner and form as the said William Catterill hath by his said plea above alledged; and this the said coroner and attorney of our said lord the now king, for our said lord the now king, prays may be enquired of by the country, and the said William Catterill doth the like; therefore for the trying of the said several issues so above joined as aforesaid, let a jury thereupon come before our said lord the now king, on the morrow of the Holy Trinity, wheresoever he shall then be in England, by whom the truth of the matter may be the better known, and who are not of the kindred of the said William Catterill, to try upon their oath the said several issues so above joined as aforesaid, because as well the said James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as the said William Catterill, have thereupon

*Distingas jura-
mentum.*

De Prius.

*Habens corpora
juratorum.*

Postea.

thereupon put themselves upon the said jury, the same day is given as well to the said James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as to the said William Catterill, at which time, to wit, on the morrow of the Holy Trinity aforesaid, before our said lord the king at Westminster, come as well the said James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as the said William Catterill by his clerk in court aforesaid, and the sheriff of the said county of Stafford hath returned the names of twelve jurors, none of whom come to try in form aforesaid; therefore the sheriff of the said county of Stafford is commanded that he do not forbear by reason of any liberty in his bailiwick, but that he distrain the bodies of the jurors aforesaid by all their lands and chattels in his bailiwick, so that neither they nor any one for them do put their hands to the same until he shall have another command from our said lord the king for that purpose, and that he answer to our said lord the king for the issues thereof, so that he may have their bodies before our said lord the now king on the morrow of All Souls, wheresoever he shall then be in England, or before the justices of our said lord the king assigned to hold the assizes in and for the county of Stafford, if they shall come before that time, that is to say, on Wednesday, the twenty-fourth day of August, at Stafford in the said county, according to the form of the statute in such case made and provided, to try upon their oath the said several issues so above joined as aforesaid in default of the jurors aforesaid, who came not to try the said several issues so above joined as aforesaid; therefore let the sheriff of the said county of Stafford have the bodies of the jurors aforesaid, accordingly to try the said several issues so above joined as aforesaid, the same day is given as well to the said James Templer, who for our said lord the king in this behalf prosecuteth, as to the said William Catterill, at which time, to wit, on the morrow of All Souls aforesaid, before our said lord the king at Westminster, come as well the said James Templer who prosecuteth for our said lord the king in this behalf, as the said William Catterill by his clerk in court aforesaid, and the aforesaid justices of assize, before whom the said jurors came to try in form aforesaid, sent here their record had before them in these words, that is to say, Afterwards, on the day and at the place within mentioned before the honourable sir James Eyre, knight, lord chief baron of his majesty's court of exchequer, and John Heath, esquire, one of his majesty's justices of his court of common pleas, justices of our lord the king assigned to hold the assizes in and for the county of Stafford within mentioned, according to the form of the statute in such case made and provided, come as well the within named James Templer, esquire, who for our said lord the king in this behalf prosecuteth, as the said William Catterill by his clerk in court within mentioned: And the jurors of the jury within mentioned being called over, some of them, to wit, Isaac Dickson, of Barr Magna, esquire, George Birch, of Handsworth, esquire, and Thomas Green, of Harborne, esquire, come and are sworn upon the said jury, and because the rest

rest of the jurors of the said jury do not appear, therefore others of the bystanders named and approved for that purpose by the sheriff of the said county of Stafford, at the request of sir Archibald Macdonald, knight, attorney general of our said lord the king, by the command of the said justices are newly appointed, whose names are added to the pannel, according to the form of the statute in such case made and provided, which said jurors so newly appointed, to wit, Thomas Adderley, Thomas Branthorpe, Tobias Mallors, Thomas Walker, William Needham, Adam Bloor, William Wolliscroft, Francis Osborn, and David Bosstock being called, likewise come, and are also sworn upon the said jury; whereupon public proclamation is made here in court for our said lord the king, as the custom is, that if there be any one who will inform the aforesaid justices of assize, the king's serjeant at law, the king's attorney general, or the jurors of the jury aforesaid concerning the matters within contained, he should come forth and should be heard, and hereupon James Adair, esquire, one of his majesty's serjeants at law, offereth himself on behalf of our said lord the king to do this; whereupon the court here proceedeth to the taking of the inquest aforesaid as well by the jurors aforesaid first impannelled and sworn, as by the other jurors now appearing, who, together with the jurors aforesaid first impannelled and sworn, being chosen, tried, and sworn to speak the truth, touching and concerning the matters within contained, say upon their oath as to the first issue within joined, On first issue. that within the said borough of Newcastle under Lyme, in the county of Stafford within mentioned, from time whereof the memory of man is not to the contrary, there hath not been nor is such antient and laudable custom there used and approved of, that is to say, that the son of every person being free born, as in the plea of the said William Catterill is within mentioned, such son being born within the said borough, hath on his attaining the age of twenty-one years been admissible, and of right ought to have been admitted a burghers of the said borough; and from time immemorial until the granting and acceptance of the letters patent in the said plea of the said William Catterill within mentioned, hath on his request been accordingly admitted and sworn a burghers of the said borough before the persons for the time being duly authorized in that behalf, and since the granting and acceptance of the said letters patent before the mayor, bailiffs, and capital burghers of the said borough in common council assembled, or a major part of them, and still of right ought to be admitted and sworn a burghers of the said borough before the mayor, bailiffs, and capital burghers of the same borough in common council assembled, or a major part of them, and from the time of his being so admitted and sworn hath always, from time whereof the memory of man is not to the contrary, there had, used, exercised, held, and enjoyed, and hath been used and accustomed there to have, use, exercise, hold, and enjoy the office of a burghers of the same borough, in manner and form as

PROHIBITION.—(SUGGESTION FOR.)

On second issue.

Judgment.

the said William Catterill hath in that behalf by his said plea within alledged: And as to the second issue within joined, the jurors aforesaid upon their oath aforesaid say, that the within-named William Catterill was not duly admitted and sworn into the office of a burghers of the said borough by and before the major part of the mayor, bailiffs, and capital burghesses of the said borough in common council assembled, in manner and form as the said William Catterill hath by his said plea within alledged; whereupon all and singular the premises being seen and fully understood by the court of our said lord the king now here, it is considered and adjudged by the said court here, that the said William Catterill do not in any manner intermeddle with or concern himself in and about the office, liberties, privileges, and franchises aforesaid, but that he be absolutely forejudged and excluded from ever exercising or using the same or any of them for the future: And that the said William Catterill, in order to satisfy our said lord the king for and on account of the usurpation aforesaid, be taken and so forth, and that the said John Wilkinson, the relator above mentioned in this behalf, do recover against the said William Catterill the sum of one hundred and eighty pounds nineteen shillings and threepence for his costs by him laid out and expended in carrying on his suit in this behalf, according to the form of the statute in such case made and provided.

PROHIBITION, PROCEEDINGS IN •.

Hilary Term, 17. Geo. III.

Suggestion for a prohibition to the spiritual court, to take cognizance of a plea of a right of way over a church-yard.

ENGLAND, to wit. Be it remembered that on Thursday next, after eight days from the day of Saint Hilary in the same term, before our lord the king at Westminster cometh W. R. of, &c. in, &c. and gives the court of our lord the now king, before the king himself here to understand and be informed, that the parish of, &c. in, &c. now is, and from time whereof the memory of man is not to the contrary hath been an ancient parish, within which parish there now is, and during all the time aforesaid hath been a certain close, wherein the corpses and bodies of dead persons have been from time to time during all that time aforesaid interred and buried, called the church-yard belonging to the aforesaid parish, and that he the said W. R. now is, and for a long time, to wit, for the space of six years now last past hath been lawfully possessed of and in a certain messuage or dwelling house and stables with the appurtenances situate and being in the parish, &c. in, &c. contiguous and near unto the said close called, &c. and that he the said W. R. and his predecessors, occupiers of the said messuage, &c. with the appurtenances for the time being,

• See *Tert* in the *Civil* division.

whereof,

whereof, &c. have had, and been used and accustomed to have, and during all the time aforesaid of right ought to have had, and still of right ought to have for himself and themselves, and for his and their servants, from time to time and at all times, a certain way or ways from a certain street or highway called, &c. in the said parish, &c. into; through, and over the said church-yard unto and into the said street, or, &c. (that is to say) to go, return, pass, and repass on foot and horseback, and with a certain carriage called a cart, otherwise a car, otherwise a truck, to and from the said messuage or dwelling-house, and on foot and on horseback, with his and their horses, to and from the said stable, without the let, hindrance, molestation; or interruption of any person or persons whatsoever: And whereas by the statute of Magna Charta of the liberties of England made at a parliament held at Westminster, in the county of Middlesex, in the ninth year of the reign of our late lord Henry the Third, heretofore king of England amongst other things ordained and established, that no freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed or exiled, or any otherwise destroyed, nor would the then lord the king pass upon or condemn him, unless by the lawful judgment of his peers or by the law of the land, as in the said statute is more fully contained: And whereas all and all manner of pleas and cognizances of pleas of trespass and ejectment whatsoever, and of all and all manner of pleas and cognizances of pleas whatsoever for recovering possession of any person or persons of or in any lands, tenements, &c. whatsoever, and also all and all manner of pleas and cognizances of pleas of and concerning freeholds and titles of all and all manner of lands and tenements, and of and concerning all and all manner of prescriptions and customs, whatsoever especially belong and appertain to our lord the king and his royal crown, and not to the spiritual court, and ought to be tried, discussed, and determined, and have always hitherto been tried, discussed, and determined at and by the common law of the realm, and not by decrees, judgments, or censures of the spiritual court; yet H. W. &c. well knowing the premises, but contriving, &c. to aggrieve, injure, oppress, vex, and disturb the said W. R. and to disinherit our lord the now king and his crown of England, and to draw the cognizance of a plea which specially belongs and appertains to our lord the now king and his crown of England to another trial in the spiritual court, have lately, against the law of this realm, drawn the said W. R. into a plea in the spiritual court before G. H. doctor of laws, commissary of the right reverend father in God, John, by divine permission, lord bishop of Winchester, for that part of the diocese of Winchester which lies within the parts of, &c. lawfully constituted of and concerning the right and title of the said W. R. to the said way or ways, and of and for a supposed indecent and irreverent behaviour and conduct in the use of the same by him the said W. R. to wit, by driving or causing to be driven his carts and horses through the church-yard belonging to the said parish, and over the graves of

the persons therein interred, by wickedly and subtilly, by a certain libel or articles objecting, articing, and libelling against the said W. R. in the said spiritual court, in that matter before the said spiritual judge in manner following, that is to say, first, that by the laws (recite the articles) ÷, as by the copy of the said articles now here in court read more fully appears: And the said H. W. &c. have wrongfully, vexatiously, and unjustly forced the said W. R. to appear in the said spiritual court before the said spiritual judge, to answer the said H. W. &c. in the premises, and although the said W. R. hath alledged and pleaded all and singular the matters above suggested and alledged in the said spiritual court, and hath offered to verify and prove the same by inevitable proof and testimony; yet the said spiritual judge hath altogether refused to admit that plea, proof, and allegation, and proposes and is daily contriving with all his might to condemn the said W. R. by a definitive sentence or decree of the said spiritual court, in contempt of our said lord the now king, to the great and manifest damage, prejudice, and impoverishment of the said W. R. and against the law of this realm of England; wherefore the said W. R. humbly implores the aid and assistance of the court of our said lord the king, before the king himself, now here prays relief and a writ of our said lord the now king of prohibition to be directed to the spiritual judge, his surrogate, or other judge, competent in that behalf, to prohibit them and every of them, that neither they or any of them do further hold plea in the said spiritual court before them or any of them in any manner touching the premises, and it is granted to him, &c.

J. MORGAN.

The recital of the articles should be carefully examined with the original, as also should the copy annexed to Mr. R.'s affidavit. See the practice in prohibition in the Attorney's Practice Epitomized.

Writ of prohibition.

George the Third, by the grace of God, &c. to the worshipful George Harris, doctor of laws, commissary of the right reverend father in God, John, by divine permission, lord bishop of W. for that part of the diocese of W. which lies within the parts of, &c. lawfully constituted for causes ecclesiastical, or his surrogate, or other competent judge whatsoever in this behalf, greeting: Whereas it was shewn unto us on the behalf of W. R. of, &c. in our court before us at W. on Thursday next, after eight days of Saint Hilary, in the seventeenth year of our reign, that the parish of, &c. was then, and from time whereof, &c. had been, &c. that by the statute of Magna Charta, &c. that all and all manner of pleas, &c. (reciting the whole of the suggestion as far as the granting the writ of prohibition, only instead of the words *our lord the now king* and *his crown of England*, say us and our crown of England, and making the like alteration where the like words occur); we, therefore, willing to maintain the laws and rights of our crown of England, as by the obligation of our oath we are bound, and

and unwilling that our liege subjects should be injured by suspensions, in contradiction thereto, do prohibit you and each of you, firmly enjoining that you do not further proceed in the premises against the said W. R. nor any further hold plea before you in any way touching the premises, nor that you or any of you attempt any thing that may tend to the damage of the said W. R. or to our prejudice, or in derogation or contempt of the laws, statutes, and custom of our kingdom of E. or to the hurt of our crown, under the danger of incurring the penalty of violators of our laws; and if you have pronounced judgment against him the said W. R. by reason of the premises, release him therefrom and absolutely absolve him from the same on the peril incumbent; witness William earl of Mansfield, at W. the day of , in the seventeenth year of our reign.

SURRY, to wit. W. R. who prosecuteth in this behalf as Declaration in well for our sovereign lord the king as for himself, complains of prohibition. H. W. &c. being in the custody, &c. in a plea; wherefore they prosecuted a plea against the said W. R. in the court christian against the royal prohibition to them first to the contrary thereof directed; for that whereas the parish of, &c. (copy the suggestion as far as the mark ÷ with this difference only, that the articles are copied instead of being introduced by way of recital) and although the said W. R. afterwards, to wit, on, &c. at, &c. delivered to the said H. W. &c. the writ of prohibition of our lord the king to the contrary thereof, yet the said H. W. &c. have not ceased further to prosecute that plea, but that same plea in the said spiritual court or court christian have since that time prosecuted and still do prosecute against him the said W. R. notwithstanding the said writ of prohibition so delivered to them as aforesaid, in contempt of our said lord the king, and the great damage and grievance of the said W. R. and against the said prohibition, to the damage of the said W. R. who prosecutes in this behalf, as well, &c. of five hundred pounds; and therefore as well for our said lord the king as for himself he brings his suit; pledges, &c.

J. MORGAN.

Hilary Term, 22. Geo. II.

ENGLAND, to wit. Be it remembered that on the day of Suggestion to in this same term comes here into court of T. D. of, &c. prohibit the ecclesiastical court from taking cognizance of a *modus*. in, &c. yeoman, by A. B. his attorney, and gives the court of our lord the now king of the bench here to understand and be informed, that all and singular of all and all manner of prescriptions and customs whatsoever of and concerning any *modus* or manner of tithing or paying tithes, and also of freehold to tythes of any person or persons of and to any lands, tenements, or tithes, now are, and from time whereof, &c. have been matters and things merely triable and determinable at and by the common law of this

this realm, and not by any ecclesiastical laws or censures whatsoever, and from time immemorial have been, and have used and accustomed to be, and of right ought to have been, and still of right ought to be tried, discussed, and determined by the common law of this realm, and have never been nor been used or accustomed to be tried, discussed, or determined by any ecclesiastical law or censures: And the said T. D. further says, that within the parish of, &c. in, &c. there now is, and from time whereof, &c. there hath been a certain ancient and laudable custom and *modus* there used and approved of, that is to say, that every occupier and possessor of any ancient meadow land within the said parish of, &c. and the bounds, limits, and titheable places of that parish for the time being, from time whereof, &c. hath yearly and every year during his occupation and possession of such meadow land paid, and been used and accustomed to pay, and ought to pay to the rector of the rectory of the parish church of, &c. for the time being, or to his farmer of the tithes of the said rectory for the time being, twopence for every acre of grass growing on such his ancient meadow land within the said parish in such respective year mowed and made into hay, for and in full satisfaction, payment, and discharge of all and singular tithes of hay in every such respective year growing, renewing, and springing on, and coming off such respective meadow land, which said sum of twopence for every acre of such grass so as aforesaid payable and paid, all and singular the rectors of the rectory aforesaid, or their farmers of the tithes of the said rectory for the time being have respectively for all the time aforesaid accepted, had, and received of every such respective occupier and possessor of such ancient meadow land, for and in full satisfaction, payment, and discharge of all and singular tithes of hay in every such respective year growing, renewing, and springing on and coming off such respective meadow land: And the said T. D. further says, that he the said T. D. in the year of our Lord 1743, was occupier and possessor of six acres of ancient meadow land lying and being in the parish of, &c. and the bounds, &c. of the said parish, and in the hay harvest in that year mowed the grass there then growing, and made the same into hay there, and in the year of Our Lord 1744, he the said T. D. was occupier, &c. of eighteen acres of, &c. lying, &c. within, &c. and in the hay harvest (as before); yet one L. R. now or late impropriator, proprietor, or farmer of the tithes happening or arising within the said parish of, &c. well knowing the premises, but contriving and intending unjustly to prejudice, oppress, and fatigue the said T. D. against the form of the law of this realm, and against the form and effect of the statute, &c. and also against the form and effect of the aforesaid custom, and to disinherit our lord the now king and his crown of England, and to draw the cognizance of a plea which belongs in an especial manner to our said lord the king and his crown of England to a trial in the spiritual court before the worshipful T. Eyre, clerk, M. A. vicar general, and official principal of, &c. by divine permission, &c. lawfully constituted his surrogate, or
some

some other competent judge in that behalf, of and for the subtraction and non-payment of tithes of hay in kind of the hay so made of the grass growing and springing on and coming off the said several parcels of land while the same were so in the tenure and occupation of the said T. D. as aforesaid, wickedly libelling against the said T. D. in the said spiritual court in manner following, that is to say, &c.

Drawn by MR. WARREN.

Trinity Term, 24. & 25. Geo. III.

CITY OF YORK, to wit. T. M. late of, &c. T. M. late of, &c. and G. W. late of, &c. were attached to answer G. H. who prosecutes in this behalf as well for our sovereign lord the king as for himself of a plea; wherefore they prosecuted the said plaintiff in the court christian against the royal prohibition, &c.: And whereupon the said plaintiff, who as well by A. B. his attorney complains, that whereas the trial of whatsoever bounds, borders, and limits of parishes within the realm of England, and how far such bounds, &c. do extend themselves, is, and from time whereof, &c. hath been matter merely triable by the common law of the realm of England, and every such trial by the same common law have been accustomed, and ought to be had, made, determined, and discussed, and not in any manner by ecclesiastical law or censure: And whereas by the law and custom of England from time whereof, &c. within the said realm had and used, some inhabitant or inhabitants, parishioner or parishioners of every parish which is a parish of itself, or within which is any parish church, have used and been accustomed, and ought to take upon himself or themselves the office of churchwarden of such parish which is a parish of itself, or within which parish is any parish church of which he or they are inhabitants or parishioners, and that every person inhabiting or living out of any parish, and no parishioner of any parish, by the law of England have been exempted, freed, exonerated, and discharged from taking upon himself the office of churchwarden of a parish or parish church, out of which parish he lives, and of which he is no inhabitant or parishioner; nor by the law or custom of England aforesaid is it lawful for the parishioners of any parish to elect and chuse any person to be churchwarden of any parish or parish church which at the time of such election is not an inhabitant or parishioner of that parish of which he is so elected churchwarden: And whereas the said plaintiff for ten years last past continually hath lived and doth now live, and hath been and now is the occupier and possessor of and in a certain dwelling-house situate and being in a certain place, lane, or street, commonly called or known by the name of, &c. situate on the west part of the close of the cathedral church of Saint. P. of York, or Minster Yard, which said house or any part thereof is not, nor for any of the time aforesaid hath been of or within the parish of Saint M. of Belfry, within the city of York aforesaid, but is extraparochial and stands out of the same parish, and is and hath

Declaration in prohibition to the ecclesiastical holding plea of the limits and bounds of a parish.

been for all the time aforesaid part of the close of the cathedral church of Saint P. aforesaid, and during all the time he hath lived in the said house hath not been a parishioner or inhabitant of the said parish of St. M. of B. by reason of which premises the said plaintiff is not nor was eligible to be churchwarden of the said parish of St. M. of B. aforesaid; yet the said defendants, three of the parishioners and inhabitants of the said parish of Saint M. of B. not being ignorant of the premises, but falsely and cunningly pretending that the said dwelling-house was and is within the said parish of Saint M. of B. aforesaid; that the said plaintiff, for and during all the time he hath lived in the said house, hath been and now is a parishioner and inhabitant of the said parish of Saint M. of B. and that the parishioners of the said parish did chuse him churchwarden for that part or district of the said parish commonly called, &c. and imagining the said lord the now king and his royal crown to disinherit, and the cognizance of pleas of and concerning the bounds, &c. of the parish of Saint M. of B. and of the dwelling-house aforesaid, which in that behalf belongs to the court of the said lord the now king, and not to the ecclesiastical court, to another trial in the ecclesiastical court before, &c. &c. lawfully authorized, hath unjustly drawn into plea the said plaintiff to take upon him the office of churchwarden of that part of the close of the cathedral church of Saint P. of York commonly called the Minster Yard, which is within the parish of Saint M. of B. for the year of Our Lord 1750, and to take the oath in like cases usually administered, and artfully and cunningly libelling and articling against him the said plaintiff in the said court christian, that he the said plaintiff, &c. &c. (setting forth the articles) as by a true copy of the said libel or articles here in court read is fully manifest and doth appear, when in truth the said dwelling-house does not nor did stand within, &c. but is extra-parochial, nor was the said plaintiff at the time of the said election a parishioner, &c. nor is, as by the said libel or articles are alledged: And although the said plaintiff in his discharge from taking upon himself the office of churchwarden of and within the said parish of, &c. hath alledged in the said court christian before the said spiritual judge, and hath often offered that matter with inevitable testimony to prove; yet the said spiritual judge hath wholly refused to admit that allegation, and he the said spiritual judge and the said defendants the said plaintiff in the premises to condemn with all their power, and him to compel to take upon him the said office, which by law he ought not to take upon himself by definitive sentence of the said court christian, daily contrive, in contempt of the said lord the king, and to the manifest damage, prejudice, impoverishment, and grievance of him the said plaintiff, and against the due form of the realm of England: And although the said plaintiff afterwards, to wit, on, &c. at, &c. delivered to the said defendants the king's writ of prohibition to the contrary thereof, yet the said defendants have not ceased further to prosecute that plea, but that same plea in that same court christian

tion there against him the said plaintiff have since that time prosecuted and still do prosecute their said suit there, notwithstanding the said writ of prohibition so delivered to them as aforesaid, in contempt of the said lord the now king, and to the great damage and grievance of the said plaintiff, and against the said prohibition; whereupon the said plaintiff, who as well, &c. says that he is injured, and hath damage to the value of five hundred pounds; and thereupon as well for the said lord the king as for himself he brings his suit, &c.

And the said defendants, by A. B. their attorney, come and defend the force and injury when, &c. and whatsoever, &c. and say that they have not prosecuted the said plaintiff in the court christian against the royal prohibition, in manner and form as the said plaintiff hath above complained against them, and of this they put themselves upon the country, and the said plaintiff who as well, &c. doth the like: And for having his majesty's writ of consultation in this behalf granted to them they the said defendants say, that the said dwelling-house in the said declaration mentioned, in which the said plaintiff during the time in the said declaration for that purpose mentioned hath so lived and inhabited, is, and during all the said time in the said declaration mentioned hath been within and part of the said parish of, &c. and the bounds, &c. of the same parish; and of this they put themselves upon the country, and the said plaintiff who as well, &c. doth the like; therefore at well to try this issue, &c.

ED. BOOTLE.

ROBSON } NORTHUMBERLAND, to wit.
 against } Lewis Dutens, clerk, rector of the rectory
 DUTENS, CLERK. } and parish church of E. in the county of
 N. and diocess of Durham, was attached to answer unto Richard Robson, who sues as well for our said sovereign lord the king as for himself in this behalf in a plea; wherefore he prosecuted his suit against the said Richard in the court christian, to the prejudice of our sovereign lord the king, his crown and dignity, and contrary to the writ of our lord the king of prohibition before directed and delivered, &c. and thereupon the said Richard who sues as aforesaid by A. B. his attorney complains, that whereas that by the laws, statutes, and customs of this realm no spiritual court whatsoever can or ought to try or take cognizance of any custom or prescription, but that all and all manner of pleas concerning customs or prescriptions, and all suits and demands for or concerning any payment or sums of money due or claimed, or supposed to be due by virtue of any custom or prescription, now are and from time immemorial hitherto have always been matters triable at the common law of this realm and before the king's temporal judges, and not by any spiritual court, and have always hitherto been tried, discussed, and determined in the king's

Declaration in prohibition to the ecclesiastical, taking cognizance of tithes of lambs, Easter dues, &c.

Articles set out.

king's temporal courts at common law before the king's temporal judges, and of right ought to have been and still of right ought to be so tried, discussed, and determined, and not in any manner by the ecclesiastical laws or by any ecclesiastical censures or decrees, or by or before any ecclesiastical judge whatsoever; yet the said Lewis, rector of the rectory and parish church of E. in the county of N. and diocese of D. well knowing the premises, but contriving and intending to aggrieve and oppress the said Richard, contrary to the course of the law of this realm, and to disinherit our lord the now king, and to draw cognizance of a plea which specially belongs to our said lord the king and his prerogative in his temporal courts to another examination in the spiritual court, heretofore, to wit, on, &c. wrongfully impleaded the said Richard in the then spiritual court, before the right worshipful G. H. doctor of laws, vicar general, and official principal, lawfully constituted of the right reverend father in God Thomas, by divine providence lord bishop of Durham, his surrogate, or some other competent judge in that behalf, craftily and deceitfully libelling in the said spiritual court, before the said spiritual judge, among other things, as follow, that is to say, first, that the said Lewis for twenty-two years then last past and upwards had been and then was rector of the rectory and parish church of E. and was lawfully, duly, and canonically instituted and inducted thereto, and invested with all and singular the rights, members, and appurtenances thereunto belonging and appertaining, and for all the said time had quietly and peaceably holden, possessed, and enjoyed the same (the grievances libellate excepted), and for and as rector of the said rectory and parish church, he the said Lewis for all the the time aforesaid had been and then was commonly accounted, reputed, and taken to be within the said parish and in other adjacent places, and the party proponent did alledge and propound of such or of any other time, and of every thing in that article jointly and severally. *Secondly*, that by common law and the laws and statutes of this realm, and also by ancient custom inviolably used and observed within the parish of E. aforesaid, and within the bounds, limits, and titheable places thereof for the twenty, thirty, forty, fifty, and one hundred years then last past, and for time whereof the memory of man is not to the contrary, the right of receiving, taking, and having all and singular the tithes, Easter offerings, or Easter reckonings, oblations, obventions, and other ecclesiastical rights, dues, profits, and emoluments whatsoever, annually proceeding, increasing, renewing, growing, happening, and being within the said parish and bounds, limits, and titheable places thereof, and especially the tithes and Easter offerings or Easter reckonings, obventions, oblations, and other ecclesiastical rights, dues, profits, and emoluments thereafter mentioned had belonged to the several respective rectors of the said rectory and parish church, predecessors of the said Lewis, for their respective times,

times, and then did belong to him the then present rector thereof and so ought for the future to appertain and belong, and the party proponent did alledge and propound every thing in that article contained jointly and severally and as before. *Thirdly*, that in the months of October, November, and December 1785, and in the months of January, February, March, April, May, June, July, August, and September 1786, or in some of the said months, the said Richard had growing, feeding, and depasturing upon three farms called C. B. and B. or upon other lands and grounds in his possession and occupation, situate and being within the parish of E. aforesaid, and bounds, limits, and titheable places thereof, three thousand five hundred or at least three thousand sheep, and of and from his ewes, being part and parcel of the said sheep, he the said Richard in some or one of the said months of February, &c. had nine hundred or at least eight hundred lambs brought forth and lambred upon his said farm, lands, and grounds, and to his own use converted the same, and in some or one of the aforesaid months of May, &c. the said Richard had and converted to his own use three thousand five hundred or at least three thousand fleeces of wool, clipped and shorn off and from his aforesaid sheep within the said parish, and the party proponent did alledge and propound, &c. &c. *Fourthly*, that on the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth days of July 1786, or on some or one of those days, or on some other day or days in the said month, the lambs in the next preceding article mentioned, were by or by the direction and order of the said Richard weaned or taken and separated from the dams, and he did alledge that at the time or times of their being all weaned or taken or separated from their dams, the tithes thereof became due and payable, and each and every lamb was at such time, in the common estimation of men, really and truly worth the sum of six shillings of, &c.; and he did also alledge, that each and every fleece of wool in the said next preceding article mentioned, one with another computed, was at the time when the tithe thereof ought to have been paid in the aforesaid year really and truly worth one shilling and sixpence of, &c. and the party proponent did alledge and propound of such a value of the said lambs and fleeces of wool severally at the times when the tithes thereof ought to have been paid in the said year 1786, or of any other value thereof greater or lesser, and of such or of any other time or times, day or days respectively as should be proved in the event of that cause, and of every thing in that article contained, jointly and severally as before. *Fifthly*, that by a certain and laudable custom or prescription inviolably used and observed within the parish of E. aforesaid, from time whereof the memory of man is not to the contrary, every parishioner and inhabitant in the said parish, or other persons, having milch ewes going, feeding, and depasturing within the same, had paid or ought to have paid, at the Feast of Easter, yearly

to the rector of the parish for the time, or to his agent or collector, the sum of sixpence of, &c. for each score of ewes milked within the said parish in the preceding year, as a composition for the tithe milk thereof; and he did alledge, that in the months of July, &c. or in some or one of the said months the said Richard had sixteen score or three hundred and twenty milch ewes going, feeding, and depasturing, and milked upon the lands and grounds in his possession or occupation, and had and converted to his own use the milk so milked and taken from his said ewes, and the party proponent did alledge and propound of such or any other custom or prescription number of milk ewes and times of milking the same in the said year, as should be proved in the event of that cause, and of every thing in that article contained, jointly and severally as before. *Sixthly*, that by a certain laudable custom or prescription, or certain laudable customs or prescriptions inviolably used and observed within the said parish of E. for time whereof the memory of man is not to the contrary, that every person being an inhabitant and housekeeper within the same, had paid and delivered and ought to have paid and delivered, at the Feast of Easter, yearly to the rector of the said parish for the time being, or to his agent or collector for his use, in the name of or for and as Easter offerings or Easter reckonings, oblations, obventions, or ecclesiastical rights, dues, profits, and emoluments as follows, to wit, one hen or six-pence of, &c. in lieu thereof, two-pence of, &c. for lint or hemp for and in respect of each farm by him or her occupied in the said parish, three-pence of, &c. for the house by him or her occupied in the said parish, one penny for every communicant or person above the age of sixteen years of which such housekeeper's family actually consisted, two-pence of, &c. for every milch cow, and one penny of, &c. for every farrow milch cow severally belonging to him or her, and going, feeding, and depasturing upon lands and grounds in his or her occupation, in the said parish, and the said party proponent did alledge and propound of such or any other custom or prescription, time or times, sum or sums of money, severally and respectively as should be proved in the event of that cause, and of every thing in that article contained, jointly and severally and as before. *Seventhly*, that on the Feast of Easter 1785 till at and after the Feast 1786, or during some part of the time between the said two Feasts, the said Richard was an inhabitant and housekeeper in the said parish of E. aforesaid, and had a family consisting of himself, his wife, and three other persons, severally above the age of sixteen years, and occupied three several farms called C. B. and B. and during all or great part of the said time he had going, feeding, and depasturing upon lands and grounds in his occupation within the said parish, four milch cows which had brought forth calves upon the said lands between the said two Feasts, and one farrow milch cow which had not brought forth a calf during the said time, and the party proponent did alledge and propound of such

such or any other number of communicants or persons under the age of sixteen years and upwards, and of which the family of the said Richard consisted, and of such or any other farms, and such a number of new calven cows and farrow milch cows or of any other number thereof respectively during all or any part of the time in that article mentioned, as should be proved in the event of that cause, and of every thing in that article contained, jointly and severally as before. *Eighthly*, the said Richard had been often or at least once asked and requested to pay, give, and deliver to the said Lewis, or to his agent or proctor for his use, the tithe offerings, oblations, obventions, and other ecclesiastical dues, profits, and emoluments above libelled for, or to compound with him for the same, but he had refused and deferred, and then did refuse and defer so to do, and he did alledge and propound as before. *Ninthly*, that the said Richard had been and then was an inhabitant of and within the said parish of E. aforesaid, in the county of N. and diocese of Durham, and therefore subject to the jurisdiction of that court, and he did alledge and propound as before. *Tenthly*, that of and concerning the premises it had been and was on behalf of the said Lewis rightfully and duly complained to the said right worshipful G. H. the vicar general and official principal aforesaid, and to that court, and he did alledge and propound as before. *Eleventhly*, that all and singular the premises were true, public, and notorious, and thereof there was a public voice, fame, and report of which, legal proof being made, the party proponent prayed right and justice to be effectually done and administered to him and his party in the premises, and the said Richard not only be condemned in the tithes, offerings, oblations, obventions, and other ecclesiastical dues, profits, and emoluments so as aforesaid set forth to be due, owing, and unjustly withholden, withdrawn, or carried away, and not paid, but likewise in lawful costs on behalf of the said Lewis, by reason of that suit necessarily made and to be made, humbly praying a sentence or final decree to be given in that cause, and further to do and decree in the premises what should be lawful in that behalf; not obliging himself to prove all and singular the premises or to the burthen of a superfluous proof against which he protested, and saving always to himself all benefit of law, prayed that so far as he should prove in the premises, so far he might obtain in that suit, humbly imploring the aid of office in this behalf.

And the said Richard by way of answer to the said pretended allegations of the said Lewis, afterwards, to wit, on, &c. in the said spiritual court before the said spiritual judge did plead and alledge, that for the space of ten, twenty, thirty, forty, and one hundred years then last past and upwards, and from time to time, and for all the said time whereof the memory of man was not to the contrary, it had been and then was customary for the several and respective rectors of the rectory of E. for the time being, or for their re-

Answer in the ecclesiastical, that notice was given to the tithe gatherer, who refused and neglected to set out the tithe.

spective

spective farmers, tithe gatherers, or agents to draw the tithe of lambs proceeding, increasing, growing, renewing, and being within the said parish of E. on the twenty-second and twenty-third days of June in each year, when they were weaned and could live without their dams; and he also pleaded and alledged that the said Richard on the first day of June 1786 sent a proper and legal notice to Mr. A.B. who was agent and tithe gatherer for the said Lewis to come and draw the tithe of the lambs belonging to him the said Richard upon the farms in his possession in the said parish of E. as had usually been done in former years, when he refused or neglected to come and tithe the same; and he further alledged, that on the said A. B.'s refusing or neglecting to come and tithe the same, he the said Richard proceeded to and had the tithe of the said lambs regularly and fairly set out by E. A. the constable of R. ward in the said parish, and within which ward the said Richard's farms are situate, and then sent proper and sufficient notice to the said A. B. to come and take away the tithe of the said lambs so set out, when he neglected or refused to come and take away the same, and the party proponent did propound of such a custom of tithing lambs in the said parish of E. or of such another custom as should be proved in the event of that suit, and of every thing in that article contained, and as before that all and singular the premises were true, public, and notorious, and of which, proof sufficient being made, the party prayed right and justice to be effectually administered to him and his party in the premises, this allegation to be admitted, and the said Richard to be dismissed from this vexatious suit with his lawful costs.

Proponent's reply.

And the said Lewis afterwards, to wit, on, &c. appearing in the said spiritual court, before the said spiritual judge did plead in the same court and deny that it had been and was customary for the several and respective rectors of the said rectory of E. for the time being, or for their respective farmers, tithe gatherers, or agents to draw the tithe of lambs proceeding, increasing, growing, renewing, and being within the said parish of E. on the twenty-second and twenty-third days of June in each year, when they were weaned and could live without their dams; and the said Richard hath in discharge of himself pleaded and alledged in the said spiritual court before the said spiritual judge, all and singular the premises by him above suggested and alledged; yet the judge of the said spiritual court doth endeavour and to the utmost of his power doth contrive to cause the said Richard to be condemned in the said spiritual court in the premises, and by the definitive sentence and decree of the said spiritual court to compel the said Richard to pay the said Lewis the tithes aforesaid demanded by the said Lewis against the said Richard, in contempt of our said lord the king and his laws, and to the great damage and manifest grievance of the said Richard, and although his majesty's writ of prohibition to the contrary thereof,

thereof, directed to the right worshipful G. H. doctor of law, vicar general, and official principal of episcopal court of Durham, was on the twenty-fifth day of June, in the twenty-ninth year of the reign of his present majesty, in the said parish of E. in the said county of N. and diocese of D. delivered to the right worshipful G. H. doctor of laws, then being official principal of the episcopal consistorial court of D. and although the said Lewis then and there had notice thereof, yet the said Lewis after the said writ of prohibition to the contrary thereof in form aforeaid, directed and delivered as aforeaid, that is to say, on, &c. at, &c. prosecuted the said plea in the said episcopal consistorial court, and proceeded in the same plea his majesty's writ of prohibition to the contrary thereof notwithstanding, in contempt of his said majesty, and to the manifest damage, prejudice, and grievance of the said Richard who sues as aforeaid, and against the laws and customs of this kingdom and the writ of prohibition aforeaid, to the damage of the said Richard, who sues as aforeaid, of one hundred pounds, and therefore as well for our said lord the king as for himself he brings his suit, &c.

And the said Lewis by A. B. his attorney comes and defends the wrong and injury, when, &c. and says, that the said Lewis hath not prosecuted the said plea in the said episcopal consistorial court, and proceeded in the same against him, and of this the said Lewis puts himself upon the country, &c. but to have and obtain the writ of our lord the king of consultation in this behalf, the said Lewis saith, that for all the time whereof the memory of man is not to the contrary it hath not been nor is it customary for the several and respective rectors of the rectory of E. for the time being, or for their respective farmers, tythe gatherers, or agents to draw the tythe lambs proceeding, increasing, growing, renewing, and being within the said parish of E. on the twenty-second and twenty-third days of June in each year, when they were weaned and could live without their dams, in manner and form as the said Richard hath above in his said declaration in that behalf alledged; and of this the said Lewis puts himself upon the country, and the said Richard doth the like; therefore, &c.

Plea by the rector, that it is not customary to draw the lambs

WESTMORELAND. William Hodges, clerk, who prosecutes as well for our sovereign lord the king as for himself in this behalf comes before the barons of this exchequer on the twenty-eighth day of November in this term, by D. D. his attorney, and complains by bill of a plea of trespass and contempt against Christopher Atkinson, clerk, present here in court the same day, who hath prosecuted a plea in the consistory court of the archdeaconry of Richmond, in the diocese of Chelster, before the worshipful William Stratford, doctor of laws, commissary or

Declaration upon a custom for parishioners to elect a curate.

or judge of the said consistory court of the archdeaconry, after his majesty's royal prohibition to the contrary thereof first directed and delivered; for that whereas all and singular pleas and cognizances of pleas of and concerning all manner of customs or prescriptions arising within this kingdom of England ought to be tried, determined, and discussed at the common law in the king's court of record, and not in the ecclesiastical or civil law courts, or by any ecclesiastical judge or ecclesiastical sentences or censure whatsoever; and whereas the parish of Buxton, in the county of Westmoreland, in the archdeaconry of Richmond and diocese of Chester is and from time whereof the memory of man is not to the contrary was and hath been an ancient parish, within which parish there now is and from time whereof the memory of man is not to the contrary was an ancient chapel for the celebration of divine service and administration of the sacraments within the said chapel, called the chapel of Preston Patrick, which said chapel before the time of the nomination hereinafter mentioned was augmented by the governors of the bounty of queen Ann for the augmentation of the maintenance of poor clergy: And whereas the vicar of the said parish and his predecessor for the time being respectively, from time whereof the memory of man is not to the contrary have been entitled to nominate and have nominated, and the vicar of the said parish for the time being yet is entitled to nominate a fit person to execute the office of a curate in the said chapel upon every vacancy of the said chapel, which person so nominated hath from time to time during the time aforesaid by licence or permission of the said bishop of Chester for the time being peaceably and quietly executed the office and function of curate of the said chapel, and received the profits thereof: And whereas on the third day of April 1737 the said chapel became and was vacant by the death of one C. S. late curate thereof, and being so vacant the said W. H. on the same day and year, at the parish aforesaid was duly nominated by the then and now vicar of the said parish to be and execute the office of curate of the said chapel, and after the nomination so made the said W. H. there duly obtained licence of the right reverend father in God Samuel, by divine permission then and now bishop of Chester, to exercise the said office and function of curate of the said chapel, and the said William by virtue of that nomination and licence was and yet is lawful curate thereof, and lawfully entitled to receive the profit to the office of curate of the said chapel belonging; nevertheless the said C. A. not being ignorant of the premises, but pretending himself to be curate of the said chapel, and contriving and fraudulently intending to deprive the said William of his office of curate of the said chapel, and unjustly to remove him from the same, and proposing and intending to procure himself to be made curate of the said chapel, and intending the said William against the due form of the laws

laws of the realm unjustly to vex, oppress, and weary, and also his present majesty and his royal crown to disinherit, and the cognizance of a plea which specially belongeth and appertaineth to his said majesty and his royal crown, to draw to another examination, caused the said William to be cited to appear in the court christian before the worshipful D. S. doctor of laws, commissary and judge of the consistory court of the archdeaconry of Richmond in the diocese of Chester, and upon the premises cautiously and deceitfully libelling against the said W. H. in that court in manner following, that is to say, for these ten, twenty, thirty, forty, fifty, and sixty years last past, and from time immemorial there hath been an ancient and laudable custom kept and observed within the said chapelry of Preston Patrick, in the parish of Buxton Kendal, in the archdeaconry of Richmond and diocese of Chester, by which the proprietors and owners of lands and tenements in the said chapelry, who respectively pay and contribute out of the said lands and tenements certain annual sums called salary money to the curate of the chapel of Preston Patrick aforesaid for the time being had by a majority in number, upon every vacancy of the said chapel, elected and chosen a fit person to execute the office of curate of the said chapel, which said person elected and chosen had from time to time, by the licence of the bishop of Chester for the time being or otherwise, peaceably and quietly executed the office or function of curate of the said chapel, and received the profits thereof, and that on or about the fourth day of April last past the said chapel being so vacant by the decease of the Reverend C. S. clerk, late curate thereof, the said C. A. clerk, bachelor of arts, had been duly elected and chosen to be curate of the said chapel, by a majority of the proprietors and owners of lands and tenements in the said chapelry of P. P. who in respect thereof paid and contributed salary money as above mentioned to the curate of the said chapel for the time being; and also that the said C. A. after he had been elected as in the next preceding article set forth, had personally attended on the right reverend the lord bishop of Chester with an instrument in writing, under the hands of a majority of the electors, signifying that they had elected and chosen him the said C. A. to be curate of the said chapel, and the said C. A. had tendered himself to the said lord bishop, and desired to be licensed to be curate of the said chapel, upon which the said lord bishop had refused; and that on or about the thirtieth day of May last past a *caveat* had been entered in the said court christian on behalf of Richard Preston, one of the owners and proprietors of lands and tenements within the said chapelry of Preston Patrick, having interest in the election or choice of a person to be curate of the said chapel, that no person should be licensed to the augmented chapel of P. P. in the parish of Buxton Kendal, in the archdeaconry of Richmond and diocese of Chester, until Richard Preston, an inhabitant of the chapelry of P. P. aforesaid, having

with others in the election and nomination of a person to be curate of the said chapel, should be first called into court or A. B. his proctor, who caused the said caveat to be entered, of which caveat notice had been given to the said lord bishop by the deputy register of that court within six days after the entry thereof, the notice whereof the said lord bishop afterwards acknowledged; and that the said premises notwithstanding the said bishop before the said Richard Preston or his proctor were called into court to shew cause to the contrary, at the instance and request of the said W. H. had granted the pretended licence in the cause exhibited, and further that all licences to exercise the office of curate in any chapel in this kingdom, by the law were, and had been, ought to have been granted by persons in holy orders of priest or at least deacon, and none others; and further alledging, that by the said pretended licence in the said cause exhibited it did not appear that the said W. H. to whom the licence was granted was then clerk; and further alledging that the chapel of P. P. aforesaid was in the parish of Buxton in Kendal, and not in any other parish, although by the said pretended licence the said chapel was mentioned to be in the parish of Buxton, and also that there was not any other revenue or profits belonging to the curate of the said chapel, save the said salary money or annual sums paid by the owners and proprietors of lands and tenements within the said chapelry in respect thereof until the same had been augmented about thirteen or fourteen years, since which two hundred pounds in conjunction with two hundred pounds more from the said owners or proprietors of lands or tenements, and also that eight last curates of the said chapel of P. P. who had officiated there as such and received the profits thereof, to wit R. R. &c. and C. S. clerk, had been severally elected and chosen to be curates of the said chapel by a majority of the owners or proprietors of lands and tenements in the said chapelry for the time being, and likewise suggesting and alledging that all and singular the premises were true, public, and notorious, and of and concerning the same there had been and was a public voice and fame in the chapelry of P. P. aforesaid and other neighbouring places; whereas in truth there is no such custom within the said chapelry of P. P. for such owners of lands there to elect a curate of the said chapel upon any vacancy by a majority in number or otherwise; and although the said W. H. all and singular the premises in the said court christian before the said spiritual judge did plead, alledge, and offer to prove the same by undeniable testimony and proof, yet the said judge of the said court hath wholly refused to admit the plea, allegation, and proof aforesaid; and the said C. A. uses his utmost effects and endeavours and daily contrives by the definitive sentence of the said court of the said archdeaconry to condemn the said W. H. in the said premises in the said court, in contempt of his said majesty, in *disberfion* of his royal crown and dignity, and to the prejudice and manifest grievance of the said W. H. and against the

laws and customs of England, and although his said majesty's writ of prohibition on the tenth day of November, in the twelfth year of the reign of his present majesty, at Buxton in Kendal aforesaid, in the county aforesaid, to the contrary thereof, was directed and delivered to the said W. S. doctor of laws, commissary and judge of the consistorial court of the archdeaconry of Richmond, in the diocese of Chester, and although the aforesaid C. A. then and there had notice thereof; nevertheless the said C. A. after the prohibition aforesaid to the contrary thereof were directed and delivered, that is to say, on the fifteenth day of December, in the year last mentioned, at Buxton in Kendal aforesaid, in the county aforesaid, prosecuted the aforesaid plea in the said consistory court, and proceeded in the same plea (his said majesty's writ of prohibition to the contrary thereof as aforesaid notwithstanding) in contempt of his said majesty, and to the manifest damage, prejudice, impoverishment, and grievance of the said W. H. who as well, &c. and against the laws and customs of this kingdom; and whereupon the said W. H. who as well, &c. saith he is injured and hath damage to the value of one hundred pounds; and therefore as well for his said majesty as for himself he brings suit, &c.

Pledges, &c.

And the said C. A. by A. B. his attorney, comes and defends Plea. the wrong and injury, when, &c. and all contempts whatsoever, and saith that he hath not prosecuted the said plea in the said consistory court after his majesty's royal prohibition to the contrary thereof first directed and delivered to him in manner and form as the said W. H. who as well, &c. hath above complained against him; and of this, &c. and the said W. H. who as well, &c. doth the like; but for having his majesty's writ of consultation in this particular, he the said C. A. saith, that true it is that the chapel mentioned in the declaration at the time in the said declaration mentioned was vacant by the death of C. S. late curate thereof, as the said W. H. hath above alledged; but the said C. A. further saith, that during all the time mentioned in the said libel in the said declaration mentioned, and from time whereof the memory of man is not to the contrary, there hath been and still is an ancient and laudable custom kept and observed within the said chapelry of P. P. that is to say, that the proprietors and owners of lands and tenements within the said chapelry, who for the time being pay and contribute out of their lands and tenements certain annual sums of money called salary money to the curate of the chapel of P. P. aforesaid for the time being, have by a majority in number, upon every vacancy of the said chapel, elected and chosen a fit person to execute the office of curate in the said chapel, which said person so elected and chosen hath from time to time by licence and permission from the bishop of Chester for the time being, or otherwise, peaceably and quietly exercised the office of curate of the

saïd chapel, and received the profits thereof: And the saïd C. A. further says, that the saïd chapel being vacant by the decease of the reverend C. S. clerk, late curate there as aforesaid, the saïd C. was duly elected or chosen to be curate of the saïd chapel by a majority of the proprietors and owners of lands and tenements within the saïd chapelry of P. P. who in respect thereof paid and contributed salary money as above mentioned to the curate of the saïd chapel for the time being, by virtue of which saïd election and choice the saïd C. A. ever since the saïd election and choice hitherto hath been and still is curate of the saïd chapelry; without this, that the vicar of the saïd parish of Buxton aforesaid and his predecessors for the time being respectively, from time whereof the memory of man is not to the contrary, have been entitled to nominate and have nominated a fit person to execute the office of a curate in the saïd chapel upon every vacancy of the saïd chapel, in manner and form as the saïd W. H. who as well, &c. hath above alledged, and this he is ready to verify; wherefore he prays judgment, and his majesty's writ of consultation to be granted to him in this particular.

J. BOOTLE.

Replication.

And the saïd W. H. who as well, &c. as to the saïd plea of the saïd C. A. for having his majesty's writ of consultation, says, by reason of any thing by the saïd C. A. in that behalf above alledged, his majesty's writ of consultation in this particular ought not to be granted to the saïd C. A. because he says as before, that the vicar, &c.; and this the saïd W. H. prays may be enquired of by the country, &c.

Declaration in
prohibition for
tythes.

LINCOLNSHIRE, ff. W. C. late of, &c. yeoman, was attached to answer to J. B. who sues in this behalf as well for our sovereign lord the king as for himself of a plea; wherefore he prosecuted a plea against the saïd John in the court christian, contrary to the king's prohibition, &c. whereupon the saïd John who sues in this behalf as well for his saïd majesty as for himself, by S. A. his attorney, complains, that whereas all and all manner of pleas, suits, and actions of and concerning any customs or prescriptions within this kingdom do belong to our sovereign lord the king and his royal crown, and are, and from time whereof the memory of man is not to the contrary have been triable and ought to be tried in the royal temporal courts of record, and not before any spiritual judge; nevertheless the saïd William, tenant, farmer, or occupier of the tithes belonging to the rectory or parish church of Scotton aforesaid, in the saïd county of Lincoln, well knowing the premises, but contriving and maliciously intending to injure, oppress, and impoverish the saïd John, contrary to the known law of the land of this kingdom, and to disinheret the saïd lord the king and his royal crown, and to draw the cognizance of a plea which properly belongs to the king's temporal courts

courts of record into the spiritual court, hath impleaded the said John in the spiritual court before the worshipful George Newell, esquire, batchelor of laws, vicar general of the right reverend father in God Richard, by divine permission, lord bishop of Lincoln, and official principal of the consistorial and episcopal court of Lincoln lawfully constituted, or his lawful surrogate, or any other competent judge in that behalf, craftily and subtilly libelling against him in the said spiritual court before the said spiritual judge, that in the years 1739 and 1740, and in the several months therein concurring and happening, the said W. C. had been and then was the lawful tenant, farmer, and occupier of all and singular the tithes and other ecclesiastical rights and emoluments belonging and appertaining to the said rectory and parish church of Scotton aforesaid, and growing, arising, and happening within the bounds, and limits, and titheable places thereof, and for and as lawful tenant, farmer, and occupier thereof, he the said William had been and then was commonly accounted, reputed, and taken to be, and that by a statute made in the second year of the reign of king Edward the Sixth, intituled, "An Act for Payment of Tithes," it was amongst other things enacted, that if any person carry away his tithe corn or hay, or his other predial tithes before the tithe thereof be set out, or willingly withdraw his tithe, the same or of such other things whereof predial tithe ought to be paid, the party so carrying away or withdrawing should pay the double value of the tithe so took, withdrawn, and carried away, over and besides the costs, charges, and expences of the suit in the same, the same to be recovered before the ecclesiastical judge, according to the king's ecclesiastical laws, as by the said statute, reference being thereunto had, would more fully appear; and by the canons and constitutions ecclesiastical, and laws and statutes of this realm, the right of receiving, taking, and having all and all manner of tithes great and small howsoever arising, growing, and happening within the bounds, limits, and titheable places whatsoever of the said rectory and parish church of Scotton, had and did then belong and appertain to the rectors, proprietors, and farmers of the rectory for the time being, and they the said rectors, proprietors, and farmers had been and were at that time in the peaceable possession thereof, and had received, had, and took the same; and the said William the then farmer, tenant, and occupier of the said tithe and ecclesiastical rights and emoluments belonging to the said rectory had received, had, and taken the same (saving as afterwards complained of); and that in the months of January, February, and March 1739, and in the months of March, April, June, July, August, and September 1740, in some one or more of the said months the said John had in his own use and occupation two roods, more or less, of a certain ancient hemp ground or garth within the parish of Scotton aforesaid and titheable places thereof, commonly called Burnet Garth, lying near the church of Scotton aforesaid, which said

ground had from time beyond the memory of man been sown with hemp, and tithe in kind had been paid for the same, which said ground he the said John did sow or cause to be sown with hemp within the months and years articulate, and from and of the said hemp land so sown as aforesaid did draw or pluck up or cause to be drawn or plucked up three hundred, two hundred, or at least one hundred bundles or beets of green hemp, and that in the year and months aforesaid, or in some or one of them the said John took and carried away the said green hemp, and within the parish aforesaid pitted and bleached the same, and bound the same in bundles, or, as it was commonly called, the white beet; and when the said hemp was so bound up in bundles in the white beets the number of the said bundles or beets amounted to three hundred or at least two hundred bundles or beets, and that in the said parish of Scotton the customary way of paying tithe hemp arising, increasing, and growing on all the ancient hemp grounds or garths in the said parish had been as follows, to wit, when the hemp land was pulled up or drawn the same was carried off the hemp ground to be pitted and bleached in some convenient place; when such hemp hath lain a sufficient time it is taken from off the pit and bleached or bound up in the white beet or bundle, the owner thereof gives notice to the rector, propriator, or farmer of the tithes to come and take the tithes or tenth thereof, and after having separated the nine parts from the ten in the presence of the rector, propriator, or farmer, or his servant, the rector, propriator, or farmer takes away and carries off his tithe or tenth without interruption; and notwithstanding the premises, in the months aforesaid, or in some or one of them, the said John after the said hemp had been pitted, bleached, and bound in the white beet, carried the same off the ground, and converted and applied the same to his own use, without giving notice to the said William or his servant or agent, or setting out or separating the nine parts from the tithe or tenth, as by law he ought to have done, or without paying any composition for the same; and that in the months and years aforesaid the true estimation and value of each and every bundle of hemp in the whole beet or bundle was worth at a moderate computation two shillings, one shilling, or at least sixpence, and the tithe thereof in the same proportion, and that the said John had been and was a mere layman, and had no right or property in the rectory aforesaid, or the tithe or ecclesiastical emoluments belonging thereto; nevertheless he had not set forth but had detained and kept the tithes aforesaid from the said William, neither had he compounded or made any satisfaction for the same; and that the said John has been frequently and often or at least once requested and desired to deliver to the said William the tithe and ecclesiastical emoluments aforesaid, and to make satisfaction for the same, notwithstanding he had refused and did then refuse so to do, as by the copy of the said libel had here in court more fully appears; and the said John appearing in the said spiritual court,

court, before the said spiritual judge, did plead and deny in the said court the said customary way of paying tithe hemp arising, increasing, and growing on the said ancient hemp grounds or garths, which in the said libel of the said William is above alleged; and although he the said John pleaded and alleged in the said spiritual court all and singular the matters and things by him above suggested, and was ready and offered to make good and sufficient proof thereof; nevertheless the said spiritual judge refused to admit the said plea, allegation, and proof of the said John in that respect; and the said William hath not ceased to prosecute his said plea, but still doth prosecute the same in the said court christian, notwithstanding the said writ of prohibition, in contempt of the said lord the king, and to the great damage and grievance of the said John, and against the said prohibition; whereupon the said John, who sues as aforesaid, says that he is prejudiced and damnified to the value of ten pounds; and thereupon as well for his said majesty as for himself he brings his suit, &c.

And the said William, by A. B. his attorney, comes and defends Plea the wrong and injury, when, &c. and all contempt and whatsoever, &c. and saith, that he hath not prosecuted his plea in the said spiritual court against the said prohibition, as the said John, who as well, &c. hath by his said declaration above supposed; and of this he puts himself upon the country, and the said John likewise: And the said William, in order to have a writ of our said lord the king of consultation in this behalf, saith, that in the parish of Scotton the customary way of paying tithe hemp arising, increasing, and growing in all the ancient hemp grounds or garths in the said parish is, and from time whereof the memory of man is not to the contrary hath been, that when the hemp land hath been pulled up or drawn, the same hath been carried off the hemp ground to be pitted or bleached in some convenient place, and when such hemp hath lain a sufficient time, and hath been taken out of the pit, and bleached and bound up in white beets or bundles, the owner thereof hath given notice to the rector, proprietor, or farmer of the tithe for the time being to come and take the tithe or tenth thereof; and this, &c. wherefore, &c.

And the said John says, that by reason of any thing above Replication. pleaded by the said William, he the said William ought not to have his said majesty's writ of consultation; because he says, that in the said parish of Scotton the customary way is not, &c. and this he prays may be enquired of by the country, &c.

CUMBERLAND, J. J. H. was attached to answer J. G. Declaration
who sues as well for our lord the king as for himself of a prohibition
S 4 plea tithes.

plea against the said J. in the court christian, against the said king's prohibition thereupon to her directed, &c. whereupon the said J. who as well, &c. by A. B. his attorney, complains, that whereas at the sessions of parliament of Edward the Sixth, late king of England, held at Westminster, in the county of Middlesex, on the fourth day of November, in the second year of his reign, among other things it was enacted, that no person should be sued or otherwise compelled to yield, give, or pay any manner of tithes for any manor, lands, tenements, or hereditaments, which by the laws and statutes of this realm, or by any privilege or permission, were not chargeable with the payment of any such tithes, or that were discharged by any composition real, and that all such barren heath or waste ground other than such as were discharged for the payment of tithes by act of parliament, which before that time had lain barren, and paid no tithes by reason of the same barrenness, and then were or thereafter should be improved and converted into arable or meadow land, should from thenceforth after the end or term of seven years next after such improvement fully ended and determined, pay tithe for the corn and hay growing upon the same, any thing in the said act to the contrary in any wise notwithstanding: And whereas the said J. on the twentieth day of May 1728 and long before was and yet is lawfully possessed of a parcel of land called or known by the name of Houghton Moss, containing by estimation three acres, lying and being in Houghton, in the parish of Stanwix, within the diocese of Carlisle, in the county of C.: And whereas the said parcel of land called Houghton Moss, from time whereof the memory of man is not to the contrary until the time of the improvement thereof hereafter mentioned, was waste ground, and of its own nature barren and unfruitful, and always before that time had lain barren, and paid no tithes by reason of the said barrenness: And whereas the said J. G. until the space of seven year now last past, to wit, 1730, did with much labour and great extraordinary expence and charge cultivate and improve the said ground called Houghton Moss, and convert the same into arable ground, and in the year 1730 ploughed and sowed the same with corn, to wit, with wheat and barley, and afterwards reaped and gathered the crop arising therefrom; nevertheless one J. H. widow, being propriator or farmer of all the tithes of corn and grain yearly arising and growing within the township of Houghton aforesaid, as she affirmed, well knowing the premises aforesaid, without any regard to the aforesaid statute, designing to aggrieve, injure, and oppress the said J. against the laws of the land, and against the tenor and effect of the said statute, to the *dishinherison* of the king and his royal crown, and to draw the cognizance and trial of a plea which belongs to the king's temporal courts into an examination and trial in the special court, the said S. H. in the court christian, before the Reverend John Waugh, clerk, master of arts, vicar general and

and official of the reverend father in God John, by divine permission, bishop of Carlisle, impleaded and libelled against the said J. for withdrawing and not paying the tithe of wheat and barley arising and growing within the said parcel of land called Houghton Moss, in the year 1732, within seven years next after the same land was improved and converted into arable land as aforesaid, within which time no such tithes arising from the said land were payable or demandable by force of the said statute, but the said land is thereby acquitted and discharged from the payment of such tithes for the space of seven years next after such improvement and conversion of the same into arable land as aforesaid, and the said S. H. compelled the said J. to appear in the court christian before the said ecclesiastical judge, and to answer the said Sarah concerning the premises; and although the said matter of discharge of payment of the said tithes ought to be tried by a jury of the county, or otherwise determined by due course of the common law of this land, and doth not belong to the ecclesiastical court, and although the said J. had pleaded and alledged the aforesaid statute, and other the premises above expressed in the same court christian before the said ecclesiastical judge, and offered to prove the same by sufficient and legal testimony, notwithstanding the said ecclesiastical judge hath refused and yet doth refuse to admit or receive the allegations and proofs aforesaid, and doth endeavour and labour to condemn the said J. by definitive sentence of the said court christian, and to compel him to pay the tithes aforesaid, in contempt of the said lord the king, to the damage and manifest aggrievance of the said J. and against the form and effect of the statute aforesaid; and although the said J. who as well, &c. on the fifth day of June, in the seventh year of the reign of our lord the king, at the parish aforesaid, delivered to the said Sarah the said writ of prohibition of our said lord the king to the contrary thereof; nevertheless the said Sarah did not cease further to prosecute the said plea, but further prosecuted the said plea in the said court christian, the said writ of prohibition to the contrary thereof to her directed and delivered notwithstanding, in contempt of our said lord the king, and to the great damage of the said J. who as well, &c. and against the said prohibition; wherefore he saith that he is injured and hath damage to the value of one hundred pounds; and thereof he brings suit, &c.

And the said S. by her attorney, comes and defends the wrong Plea. and injury, when, &c. and all contempt and every thing, &c. and saith that she hath not prosecuted the plea in the said court christian, after the king's prohibition first directed and delivered to her to the contrary thereof, as the said J. G. who as well, &c. above supposeth by the said declaration; and of this she puts herself upon the country, and the said J. likewise; but to have the said king's writ of consultation in this behalf the said Sarah saith, that at the said time when the said Joseph subtracted the

the tithes of wheat and barley arising and growing upon the said parcel of land called Houghton Moss, within the said township of Houghton, in the year of Our Lord 1732, she the said S. H. was farmer of all the tithes of corn and grain yearly arising and growing within the township of Houghton aforesaid: And the said further saith, that the said parcel of land called Houghton Moss, in the year of Our Lord 1732, by the said J. G. was ploughed, tilled, and converted into good arable land, without any great or extraordinary labour or charges, and without any more than the ordinary charge, tillage, and agriculture, which the said J. G. and the other inhabitants of Houghton aforesaid have and do annually bestow upon his and their corn fields and ploughed lands within the said township; and because the said J. G. in the year 1732 ploughed and sowed the said parcel of land called Houghton Moss with corn, to wit, with wheat and barley, and afterwards reaped the crop arising therefrom without setting out the tithe thereof, she the said Sarah impleaded the said J. in the said court christian for withdrawing and not paying the tithes of wheat and barley arising and growing upon the said parcel of land called Houghton Moss in the year last mentioned, as it was lawful for her to do; without this, that the said parcel of land called Houghton Moss, from the time whereof the memory of man is not to the contrary until the said time of the improvement thereof, was waste ground, of its own nature barren and unfruitful, and before that time had lain barren and paid no tithes by reason of the said barrenness in manner and form as is above alledged in the said declaration; and this she is ready to verify; wherefore she prays judgment and the king's writ of consultation in this behalf to be granted to her, &c.

Replication.

And the said J. G. as before saith, that the said parcel of land called Houghton Moss, from time whereof the memory of man is not to the contrary until the said time of the improvement thereof, was waste ground, of its own nature barren and unfruitful, and always before that time had lain barren and paid no tithes by reason of the said barrenness, in manner as is above alledged in the said declaration; and this he prays may be enquired of by the country, and the said J. doth the like; wherefore as well to try this issue as the said other issues above joined between the said parties the sheriff is commanded, &c.

Suggestion.

ENGLAND, to wit. Be it remembered that on Tuesday next after three weeks from the day of the Holy Trinity in this same term, before the lord the king at Westminster, in the county of Middlesex, James Oliver comes in his own proper person and giveth the court of our lord the king to understand and be informed, that whereas one J. C. deceased, was in his lifetime and at the time of his decease indebted to the said J. O. in a large sum of money upon and by virtue of a certain writing obligatory of

of the said J. C. by him the said J. C. in his lifetime sealed and delivered: And whereas after the death of the said J. C. who died intestate, administration of all and singular the goods and chattels which were of the said J. C. at the time of his decease, was in due manner committed to A. C. the widow of the said J. C.: And whereas the money remaining unpaid to the said J. O. he the said J. O. for the obtaining from the said A. C. a true and perfect inventory of the goods, chattels, and credits which were of the said J. C. at the time of his decease, and also a true and just account of her administration of the said goods, chattels, and credits, and for no other purpose whatsoever, after the death of the said J. C. and after the committing of the said administration to the said A. C. to wit, eleventh November 1751, did cause the said A. C. to be cited or summoned within the jurisdiction of the court of peculiars of D. A. clerk, M. A. principal official of the royal, peculiar, and exempt jurisdiction of the deanery of Bridgenorth, in the county of Salop lawfully constituted, to appear in that court before the said T. A. judge of that court, or his lawful surrogate, or other competent judge in that behalf, in the parish church of Saint Mary Magdalen, in Bridgenorth aforesaid, on Tuesday the twenty-sixth of November then instant, between the hours of nine and twelve o'clock in the forenoon of the same day, then and there to exhibit a true and perfect inventory of all and singular the goods, chattels, rights, and credits of the said deceased, which since his death had then come to her hands, possession, and knowledge, and also to render a true and just account of the administration of the said goods, chattels, rights, and credits of the said deceased, which said exhibiting of the inventory above mentioned, and rendering of the said account by her the said Ann, were all and singular the matter and things then required of the said Ann by the said C. , or by him the said J. O.: And whereas all and all manner of pleas of and concerning any debt or debts of any subject or subjects of this realm, and the recovery thereof, and the cognizance, decision, and determination of such pleas belong only to the king's temporal courts, and not to any ecclesiastical court or judge whatsoever: And whereas no court or judge ecclesiastical whatsoever ought, according to the laws of this realm, to pronounce decree or sentence against any creditor of a person dying intestate, that the administration of the goods and chattels of such intestate had fully administered the goods and chattels of such intestate, and thereupon condemn and sentence such creditors to the payment of any costs on account or by reason of any citation only, or such administrator of the goods and chattels of such intestate to exhibit an inventory of the goods, chattels, and credits of such intestate at the time of his or her death, and to render a true and just account of his or her administration thereof, and for no other purpose, without some previous libel or allegation on the part of such creditor being first propounded or exhibited in such court: And whereas all decisions and determinations concerning the full administration of an intestate's effects with respect to any claim or demand of a creditor of such intestate appertain

appertain entirely to the said king's temporal courts, and not to any ecclesiastical court or judge whatsoever, and no ecclesiastical court or judge whatsoever ought to sentence, decree, or determine of or concerning any matter or thing not submitted or brought before such court or judge for the decision thereof; ÷ nevertheless the said D. A. and the said court of peculiars, well knowing the premises, and also well knowing that the said J. O. had not intitled or exhibited any libel or allegation whatsoever in the said court of peculiars against the said Ann, nor had in anywise submitted the determination whether the said Ann had fully administered the goods and chattels of the said J. C. or not to the judgment of the said court of peculiars, but contriving unjustly to aggrieve and oppress the said J. O. and to draw the cognizance and determination of the said debt so due to the said J. O. as aforesaid, and his right of recovering the same, to the cognizance and jurisdiction of the said court of peculiars on the sixteenth of January 1753, proceeded to make, and then actually made and declared a certain pretended sentence or decree in the said court between the said J. O. and the said Ann, and by the same sentence then and there pronounced, decreed, and declared against the said James, that the said Ann had fully administered all and singular the goods, chattels, and credits of the said J. C. deceased, which since his death had then come to her hands, custody, possession, or knowledge, and that the said J. O. ought to be condemned in all lawful costs of suit, and the expences made in that pretended cause or business by or on the part of the said Ann in proving the said account, and did by the said pretended decree or sentence condemn him the said J. O. in such costs and expences, which the said D. A. by that pretended sentence then taxed and moderated to and at the sum of ten pounds of lawful English money, besides the incident and subsequent charges: And the said D. A. did then sentence and decree the said J. O. to be compelled to the due payment thereof to the said Ann or her party by that his pretended definitive sentence and decree, whereas in truth and in fact the said J. O. had never made or exhibited any libel or allegation against the said Ann in that court, nor had instituted any suit whatsoever against her there, excepting the procuring of the citation aforesaid for the purpose above mentioned, and for no other purpose whatsoever, nor had the said James in anywise submitted, alledged, or brought the determination whether the said Ann had fully administered or not before the said judge of that court for his cognizance or decision thereof, and this the said James is ready to verify; wherefore the said James, most humbly imploring the aid and munificence of this court, prays remedy by a writ of our said lord the king of prohibition to be directed to the spiritual judge or other competent judge of that court in this behalf whatsoever, to prohibit him, them, and every of them, that they or any of them may not further proceed in anywise touching the premises, and that the said James may be absolved and discharged from the sentence aforesaid, and it is granted him, &c.

George

George the Second, &c. To the reverend D. A. clerk, master Writ. of arts, official principal of the royal, peculiar, and exempt jurisdiction and deanery of Bridgnorth, in the county of Salop, lawfully constituted, or his lawful surrogate, or other competent judge of the court of peculiars there in this behalf greeting, it is shewn to us in our court before us at Westminster, on the part of J. O. that whereas one deceased (*Here is recited the foregoing suggestion verbatim, except its being directed to D. A. where it says, you the said D. A. down to the mark :: in the suggestion, then it proceeds as follows*): we, therefore, being willing to maintain the rights of our crown, and the laws and customs of our realm of England, as by our oath we are obliged, and being unwilling that any of our liege subjects should be unjustly or illegally oppressed or aggrieved, or that matters which belong only to the jurisdiction of our temporal courts should be drawn into an ecclesiastical court or unduly intermeddled with by the pretended cognizance or sentence of such spiritual court, do prohibit you the said D. A. the spiritual judge, and every other competent judge of the said court of peculiars in this behalf whatsoever, firmly enjoining that you or any of you do not further proceed in the same court in anywise touching the premises, and that you and every of you absolve and discharge the said James from the sentence aforesaid at your peril: Witness, sir Dudley Rider, knight, &c.

NORTHAMPTONSHIRE, to wit. E. B. and J. H. late churchwardens of the parish church of Brackley Saint Peter, in the county aforesaid, were attached to answer J. H. who sues as well for our lord the king as for himself of a plea; wherefore he prosecuted the plea against the said J. H. in the ecclesiastical court against the king's prohibition to them directed thereupon to the contrary, and thereupon the said J. H. who as well, &c. by A. B. his attorney, complains, that whereas the said limits and boundaries of the parishes and towns in that part of this kingdom called England, and how far such limits and boundaries extend themselves are triable at the common law of England, and all such pleas specially belong and appertain to our said lord the king and his royal crown, nor ought such pleas to be tried or determined by the ecclesiastical laws: And whereas there now are, and from time immemorial have been within the town of Brackley aforesaid two several parishes, one of them called the parish of Saint James, Brackley, and the other of them called the parish of Saint Peter's, Brackley, and two several parish churches belonging to the said respective parishes: And whereas the said J. H. now is, and at the time of the libel hereinafter mentioned, and for the space of four years then next before, and ever afterwards hitherto hath been, and yet is possessed, and an inhabitant of and in a certain messuage, with the appurtenances, situate and in the parish of St. James, Brackley: And whereas the said J. H. is not seised or possessed, nor the time last above said was seised or possessed

Declaration in prohibition as to repairing the church, and the limits of a parish, against churchwardens, &c.

PROHIBITION, DECLARATION IN.

possessed of any lands or tenements in the parish of St. Peter's, Brackley, or within the limits of the same parish, or was the said J. H. ever inhabitant or resident in the same parish of St. Peter's, Brackley, the precincts or perambulations of the same parish, nor was nor is he chargeable with the payment or contribution of any sum of money towards the repairs of the parish church of Saint Peter's, Brackley, in any manner whatsoever, but the messuage aforesaid, with the appurtenances in the libel hereinafter mentioned specified, and of which the said J. H. now is, and at the time of taxation and assessment in the same libel hereinafter mentioned made hath been an occupier and possessor, was and is situate within the parish of Saint James, Brackley, and not within the limits or boundaries of the parish of Saint Peter's, Brackley, and by reason thereof the said J. H. is chargeable towards the repairs of the parish church of Saint James B. only; yet the aforesaid E. B. and J. H. at the time of the exhibiting the libel or, then lately being churchwardens of the parish church of Brackley Saint Peter's, not ignorant of the premises, but endeavouring to disinherit our lord the king and his crown, and the cognizance of a plea which to our lord the king and his crown especially belongs and appertains, to draw into another examination in the ecclesiastical court, and unduly to vex, oppress, and wrong the said Timothy, and to make him pay the sum of fourpence halfpenny by way of tax by reason of his messuage aforesaid towards the repairs of the parish church of Saint Peter's B. upon him imposed and charged the said T. in the ecclesiastical court before the reverend and worshipful G. R. doctor of laws, vicar general of spiritual matters, commissary general, and official principal of the right reverend father in God, Robert, by divine permission, lord bishop of Peterborough, and also official of the reverend the archdeacon of the archdeaconry of N. lawfully constituted his surrogate, or some other competent judge, drew into plea, craftily and subtilly libelling in manner and form following, to wit, &c. as by the copy of the libel aforesaid here in court brought may appear: And the said E. B. and J. H. unjustly obliged the said T. to appear before the aforesaid spiritual judge in the ecclesiastical court, and answer the aforesaid E. and J. of and concerning the premises, and although the aforesaid T. all and singular the premises by him above suggested and alledged before the aforesaid spiritual judge in the ecclesiastical court, in his discharge of and from the premises aforesaid above pleaded and alledged, and offered to prove the same by incontestible proof and testimony; yet the aforesaid spiritual judge the plea and allegation aforesaid wholly refused to admit, and the said E. and J. used all their endeavours him the said T. by definitive sentence in the ecclesiastical court to cause to be commenced and to compel him to pay the said sum of money upon him unduly imposed as aforesaid, in contempt of our said lord the king, and the great damage of the said T. and although the said T. afterwards, to wit, the twenty-ninth of November, in the fifth year of the reign of our said lord the king, at Brackley aforesaid,

by

by a writ of prohibition of our said lord the king to the aforesaid E. B. and J. H. to the contrary delivered; yet the aforesaid E. and J. the plea aforesaid have not caused to cease, but that plea in the ecclesiastical court against the said T. further have prosecuted and still do prosecute the same, the said writ of prohibition to the contrary notwithstanding, in contempt of our lord the king and the great damage of the said F. and contrary to the prohibition aforesaid; wherefore the said T. who as well, &c. says, that he is injured to the value of twenty pounds, and thereupon as well for our lord the now king as for himself he brings the suit, &c.

And the said E. and J. by A. B. their attorney, come and defend the wrong and defend the wrong and injury, when, &c. and all the contempt and whatsoever, &c. and say that they have not prosecuted the said plea in the said ecclesiastical court against the said T. after the issuing of the king's prohibition to them directed to the contrary, as by the said declaration is above supposed, and of this, &c. and the said T. &c.: And for a writ of consultation of our lord the king in this behalf to be had, they the said E. and J. say, that within the town of B. aforesaid there is, and at the time of the rate and assessment aforesaid in the libel aforesaid in the declaration above mentioned made, and also from the time whereof the memory of man is not to the contrary, was only one parish, commonly called and known as well by the name of the parish of St. Peter's, Brackley, as by the name of the parish of Brackley, which said parish of Saint Peter's, B. otherwise the parish of B. extends itself, and for all the time aforesaid did extend throughout the whole town of B. aforesaid, and that within the town of B. there is, and at the time of making the said rate and assessment, whereof the memory of man is not to the contrary, was one parish church only, to wit, the said parish church of Saint Peter's, Brackley, within the said parish, and to the said parish belonging, and that the said messuage of the said J. in the said declaration above mentioned is, and at the time of making the said rate and assessment was situate within the said town, within the limits, bounds, and precincts of the said one parish of Saint Peter's, Brackley, otherwise the parish of B. aforesaid, and that the said T. at the time of making the said rate and assessment, and long before, and always afterwards hitherto was, and still is possessed of the said messuage with the appurtenances, and for the time aforesaid was resident and inhabiting within the same one parish, and by reason thereof was duly rated and assessed towards the repairs of the said parish church of Saint Peter's, B. in manner and form as in the said libel is above alledged, and that they the said E. and J. as churchwardens of the said church, and before the prohibition to them directed to the contrary, impleaded the said T. in the said spiritual court in manner and form as in the said libel is mentioned, for non-payment of the said rate and assessment so as aforesaid made being lawfully demanded, as it was lawful for them to do, without this that there now are, and from time whereof the memory of man is not to the contrary have been within the said town of B.

Plea, that there is only one parish and church within that parish.

B. two several parishes, one thereof called the parish of Saint James, Brackley, and the other of them called the parish of Saint Peter's, Brackley, and two several parish churches to the said supposed respective parishes belonging, as the said T. by the said declaration above supposes: And this, &c.; wherefore they pray judgment, and that a writ of consultation of our lord the king in this behalf may be granted, &c.

Replication.

And the said J. H. &c. who as well, &c. as before, saith, that there now are, and from time whereof the memory of man is not to the contrary there have been within the said town of Brackley aforesaid two several parishes, one of them called the parish of Saint James, Brackley, and the other of them called the parish of Saint Peter's, Brackley, and two several parish churches belonging to the said respective parishes, as the said J. by his declaration aforesaid hath above alledged; and this he prays, &c. and the said E. and J. do the like.

Suggestion for a prohibition on a prescription for a pew.

ENGLAND, to wit. Be it remembered that on the eleventh day of November in the same term comes here into court T. P. of the parish of Chilford, in the county of Hereford, esquire, by his attorney, and giveth the court of the lord the now king of the bench here to understand and be informed, that the parish of Chilford, in the county of Hereford now is, and from time whereof the memory of man is not to the contrary hath been an ancient parish, within which parish there now is, and during all the time aforesaid there hath been a certain ancient parish church, and that he the said T. P. now is, and for the space of two years and more now last past hath been owner and proprietor, and seised in his demesne as of fee of and in a certain messuage or dwelling-house and divers, to wit, ten acres of land with the appurtenances formerly called Gorges Land, but now called and known by the name of Aston's Farm, situate, lying, and being in the parish of Chilford aforesaid, and by reason thereof he the said T. P. and all those whose estate he so hath, and during all the time aforesaid had of and in the messuage or dwelling house and land with the appurtenances for the time being, from time whereof the memory of man is not to the contrary, have had, held, used, and enjoyed, and have been used and accustomed to have, hold, use, and enjoy, and during all the time aforesaid of right ought to have had, held, used, and enjoyed, and the said T. P. still of right ought to have, hold, use and enjoy for himself, his farmers, and tenants, occupiers of the said messuage or the dwelling-house for the time being, and for his and their family respectively inhabiting or dwelling in the said messuage or dwelling-house for the time being the whole use and benefit of a certain seat or pew situate on the north side of the nave or body of the parish church of Chilford aforesaid, to hear and attend divine service celebrated in the said parish church on Sundays and feast days, and at all other times whenever divine service hath been celebrated in the said church, as belonging and appertaining to the

the said messuage or dwelling-house now of the said T. P. with the appurtenances, and that he and they, by themselves and his and their families, servants, or tenants, or such as he or they have leave to sit in the same, hath and have during all the time aforesaid sat in, used, and enjoyed the said seat or pew without any interruption whatsoever, and that he and they hath and have, during all the time aforesaid, at his and their own proper costs and charges respectively repaired the said pew or seat in right of and as belonging to the said messuage or dwelling-house with the appurtenances: And whereas by the statute of magna charta of the liberties of England made at a parliament held at Westminster, in the county of Middlesex, in the ninth year of the reign of the lord Henry the Third, heretofore king of England, it is among other things ordained and established, that no freeman shall be taken or imprisoned, or be disseised of his freehold, or liberty, or free custom, or be outlawed, or exiled, or any other ways destroyed, nor would the lord the king pass upon or condemn him unless by lawful judgment of his peers, or by the law of the land, as in the said statute is more fully contained: And whereas all and all manner of pleas and cognizances of pleas of trespass and ejectment whatsoever, and of all and all manner of pleas and cognizances of pleas whatsoever for recovering of possession of any lands, tenements, liberties, easements, privileges, and other hereditaments whatsoever, and all and all manner of pleas and cognizances of pleas of and concerning freeholds and titles of lands, tenements, and hereditaments, and of and concerning the right or title to seats and pews in parish churches, and the rights, liberties, privileges, advantages, and benefit of using and sitting in such seats and pews to hear and attend divine service, and of and concerning all privileges and appurtenances belonging to any messuages, or lands, or other hereditaments within this kingdom of England, and of and concerning all and all manner of prescriptions and customs whatsoever especially belonging and appertaining to the king and his royal crown, and not to any spiritual court, and ought to be tried, discussed, or determined, and have always hitherto been tried, discussed, and determined, at and by the common law of this realm, and not by any decree, judgment, or censure of the spiritual court, yet one W. J. late of Chilford aforesaid, yeoman, and E. his wife, and L. C. late of Chilford, yeoman, and Ann, his wife, well knowing all and singular the premises aforesaid, but contriving and maliciously intending to prejudice, oppress, and aggrieve the said T. P. against the due form of law of this kingdom, and against the form of the statute in such case made and provided, and also against the form of prescription, and to disinherit the lord the now king and his royal prerogative, and to draw the cognizance of a plea which only belongs to the said lord the king and his royal prerogative to another trial in the spiritual court, claiming a title to the said pew under colour and pretence of their or some of them being owners of a certain messuage or tenement, and a farm called Pentwee

Howdell, in the parish of Chilford aforesaid, and as appurtenant thereto have wrongfully and unjustly drawn into plea the said T. P. in the spiritual court, before the reverend J. B. doctor in divinity, vicar general and official principal of the right reverend father in God, James, by divine permission, lord bishop of Hereford, lawfully constituted, his lawful surrogate, or some competent judge in that behalf, in order to disturb and impeach the said T. P.'s right and title to the said seat or pew, and to recover the said seat or pew, and the liberty and privilege of the said seat or pew from the said T. P. and for that purpose have lately, to wit, seventh of March 1760, caused to be issued out of the said spiritual court certain letters of intimation at their instance and prosecution in the name of the said J. B. doctor in divinity, vicar general and official principal of the said right reverend father in God, James, by divine permission, lord bishop of Hereford, lawfully constituted, directed to the vicar or curate of the parish church of Chilford aforesaid, in the county and diocese of Hereford, thereby empowering and strictly enjoining the said vicar or curate jointly or severally to publish and declare, in the parish church of Chilford aforesaid, on the Sunday next after the receipt of the letters of intimation before the congregation then and there assembled, that whereas W. J. and E. his wife, and L. C. and A. his wife, owners of a certain messuage or tenement and farm called Pentree Howell, in the said parish, had prayed that the said seat or pew described in the said letters of intimation by the description of a certain seat or pew situate on the north side of the nave or body of the said church, containing in length five feet two inches or thereabouts, *and in breadth three feet and six inches or thereabouts*, having a seat belonging to D. S. on the east, the great alley of the church on the south, a seat wherein H. G. and his family did usually sit on the west, might be granted and confirmed to them for their use, for the present and all future occupiers and inhabitants of the said messuage and tenement or farm, to sit, stand, and there to hear divine service and sermons read and preached, and that therefore the said vicar or curate, by virtue of the said letters of intimation, was to cite the churchwardens of the said parish specially, and all others in general that did pretend to have any right, title, or interest in or to the said seat or pew, that they should appear before the said reverend and worshipful J. B. doctor in divinity and chancellor of the diocese of Hereford, his lawful surrogate, or other competent judge in that behalf, in the cathedral church of Hereford, and in the bishop's consistory place there, on Thursday the twentieth of March then instant, between nine and twelve in the forenoon of the same day, then and there to shew cause, if any they could, why the said seat should not be granted to the said W. J. and E. his wife, and L. C. and A. his wife, for the uses aforesaid, and to intimate to all persons thereby cited, to whom the said judge of the court did also thereby intimate, that if they did not appear accordingly, or appearing shew not a sufficient cause to the contrary, the judge of
the

the said court did intend to proceed, and would proceed to grant and confirm the said seat to the said W. J. &c. and to and for the uses aforesaid, the absence or rather contumacy of all persons thereby cited in anywise notwithstanding, and have wrongfully and unjustly caused the said letters of intimation to be publicly read in the time of divine service in the said parish church, on Sunday the ninth of March 1760, and have thereby wrongfully and unjustly compelled and obliged the said T. P. to appear in the spiritual court before the said spiritual judge, and to answer them of and concerning the pleas aforesaid, and although the said J. P. all the aforesaid matter by him here suggested hath pleaded and alledged in the said spiritual court before the spiritual judge, in order to his discharge from the said spiritual court; yet the said spiritual judge hath altogether refused and still refuses to admit, allow, or receive the said plea, allegation, and proof, and is endeavouring and attempting to condemn the said T. P. in the premises by a definitive sentence of the spiritual court, and daily threatens the same to the great contempt of the lord the now king and his laws, to the great and manifest damage, prejudice, and injury of the said T. P. and against the form of the statute in such case made and provided, and also against the form of the aforesaid prescription, and this the said T. P. is ready to verify; wherefore he humbly imploring the aid and munificence of this honourable court prays relief, and his majesty's writ of prohibition to be directed to the said spiritual judge, and also all other spiritual judges competent in this behalf, to prohibit them and every of them that they or any of them do any further hold cognizance of the said plea touching the premises aforesaid before them or any of them, and it is granted to him, &c.

ENGLAND, to wit. Be it remembered that on Saturday next after fifteen days of the Holy Trinity in this same term, comes here into court William Swales, of the parish of Whitby, in the county of York, master mariner, by John Hancock, his attorney, and giveth the court of the lord the now king, before the king himself, here to understand and be informed, that the parish of Whitby, in the county of York, now is, and from time whereof the memory of man is not to the contrary hath been an ancient parish, within which said parish there now is, and during all the time aforesaid there hath been a certain ancient parish church, and that he the said William now is, and for one year and more now last past hath been owner and proprietor, and seised in his demesne as of fee of and in a certain messuage or dwelling-house with the appurtenances, situate and being in the parish of Whitby aforesaid, and during all the time aforesaid hath occupied and still occupies the same, and by reason thereof he the said William, and all those whose estate he now hath, and during all the time aforesaid had of and in the said messuage or dwelling-house, with the appurtenances for the time being, from time whereof the

Suggestion for a seat in a church.

memory of man is not to the contrary have had, held, used, and enjoyed, and have been used and accustomed to have, hold, use, and enjoy for his and their families respectively inhabiting or dwelling in the said messuage or dwelling-house for the time being the whole use and benefit of a certain seat, stall, or pew situate in the north aisle of the parish church of Whitby aforesaid, adjoining on the east to the seat, stall, or pew of the late Mrs. Newton, and the seat, stall, or pew wherein Mr. Robert Clarke and others usually sit on the north, to the seat, stall, or pew of Robert Wastell and others on the south, to the seat, stall, or pew of Adam Boulby, gentleman, and the seat, stall, or pew of Thomas Boulby, esquire, and others, and opens on the west into the said north aisle, and on two small pews belonging to the late Oliver Coates and the said Adam Boulby, containing in length six feet three inches or thereabouts, and in breadth five feet or thereabouts, to hear and attend divine service celebrated in the said parish church, as belonging and appertaining to the said messuage or dwelling-house of the said William, with the appurtenances, and that he and they by themselves and his and their families and servants, or such as he or they gave leave to sit in the same, hath and have, during all the time aforesaid, sat, used, and enjoyed the said seat, stall, or pew, without any interruption whatsoever, and that he and they hath and have, from time whereof the memory of man is not to the contrary, at his and their own proper costs and charges, respectively repaired the said seat, stall, or pew in right and as belonging to the said messuage or dwelling-house with the appurtenances: And whereas he the said William Swales now is, and for divers years last past hath been a parishioner of and within the parish of Whitby aforesaid, and whereas all and all manner of pleas and cognizance of pleas of trespass and ejectment whatsoever, and of all and all manner of pleas and cognizances of pleas whatsoever for recovery of possession of any lands, tenements, liberties, easements, privileges, and other hereditaments whatsoever, and also all and all manner of pleas and cognizances of pleas concerning the right and title to seats and pews in parish churches, and the rights, liberties, privileges, advantages, and benefit of using and sitting in such seats and pews to hear and attend divine service as appurtenant and belonging to any messuage, lands, or other hereditaments within this kingdom of England, and of and concerning all and all manner of prescriptions and customs whatsoever especially belong and appertain to the lord the king and his royal crown, and not to any spiritual court, ought to be tried, discussed, and determined at and by the common law, yet one Mary Bagwith, widow, and one Mary Hutchinson, widow, knowing all and singular the premises aforesaid, but contriving and maliciously intending to prejudice, oppress, and aggrieve the said William Swales against the due form of the law of this kingdom, and against the form of the statute in such case made and provided, and also against the form of the prescription aforesaid, and to disinherit

disinberit the said lord the king and his royal prerogative, and to draw the cognizance of a plea which only belongs to the said lord the king and his royal prerogative to another trial in the spiritual court, claiming title to the said seat, stall, or pew, or some part thereof, under colour and pretence of their being parishioners and inhabitants of the parish of Whitby aforesaid, have lately wrongfully and unjustly drawn into plea the said William in the said spiritual court, before R. Roper, doctor of laws, vicar general and official principal of the most reverend father in God, Robert, by divine providence, archbishop of York, primate of England, and metropolitan lawfully authorised, in order to disturb and impeach the said William's right and title to the seat, stall, or pew, and to recover the said seat, stall, or pew, and the liberty and privilege of the said seat, stall, or pew, from the said William, and for that purpose have lately, to wit, on the third day of January, in the year of Our Lord 1772, caused to be issued out of the said spiritual court certain letters of intimation at their instance and prosecution, in the name of the said R. Roper, vicar general and official principal as aforesaid, lawfully authorised, directed to all and singular clerks and literate persons whomsoever and wheresoever within the diocese of York, thereby rendering and charging them jointly and severally that they or one of them should peremptorily cite all and singular the parishioners and inhabitants of and within the said parish of Whitby and diocese of York, and all others in general who had or pretended to have any right, title, or interest in or unto the said seat, stall, or pew, personally if they could be so cited, if not personally by publishing the citation in the parish church of Whitby aforesaid in the time of divine service, and by all other ways and means, so that that citation might most probably come to the knowledge of the persons to be cited to appear before the said R. Roper in the consistory place within the cathedral and metropolitan church of Saint Peter of York, on Friday, being the thirty-first day of the month of January then instant, between the hours of eight and twelve in the forenoon of the same day, to shew reasonable and lawful cause if they had or knew any, why the said seat, stall, or pew should not be allotted and confirmed to the said Mary Bagwith and Mary Hutchinson, parishioners and inhabitants of and within the said parish for the use of themselves and their families to sit, kneel, pray, and hear divine service and sermons in, and further at the promotion of the said Mary Bagwith and Mary Hutchinson to do and receive what the law should require in that behalf, and what they or any of them should do in the premises they should duly certify to the said R. Roper, vicar general and official principal as aforesaid, lawfully authorised, or his lawful representative at the time and place aforesaid, together with the said citation: And the said Mary Bagwith and Mary Hutchinson have alledged before the said spiritual judge that the said seat, stall, or pew formerly belonged to one Hugh Shipton, of the parish of Whitby, who married Mary Bagwith,

widow, the relict of Luke Bagwith, late of Whitby aforesaid, deceased, and that they the said Hugh Shipton and Mary his wife, with Christopher Bagwith, her son by the said Luke Bagwith her first husband, constantly and as often as they resorted to their parish church of Whitby, sat in and enjoyed the said seat, stall, or pew, till the death of the said Hugh Shipton, who was drowned at sea about sixty-five years ago, and that after the death of the said Hugh Shipton, the said Mary Shipton, his widow and relict, formerly Mary Bagwith, and her said son, Christopher Bagwith, continued to occupy, possess, and enjoy the said seat, stall, or pew, without the least molestation or disturbance of any one; that the said Mary Shipton afterwards married a third husband, to wit, Mr. John Weatherhill, of Whitby, by whom he had a daughter named Barbara, and they the said John Weatherhill and Mary his wife, late Shipton and formerly Bagwith, Barbara, their daughter, and the said Christopher Bagwith, her son by her first husband, Luke Bagwith, continued in the like manner to sit in and enjoy the said seat, stall, or pew till their respective deaths, and that Mary Bagwith, widow, about thirty-six years ago married Christopher, and that he died about seven years ago, leaving the said Mary, his widow, and three daughters, to wit, Mary, Elizabeth, and Hannah; that the said Barbara, the daughter of the said John Weatherhill by the said Mary his wife, formerly Mary Bagwith, and afterwards Shipton, married to one James Yeoman, of Whitby, by whom she had a daughter named Barbara, and the said Christopher Bagwith and Mary his wife, with their said three daughters, and the said James Yeoman and Barbara his wife, with their said daughter Barbara, so long as they continued to be parishioners and inhabitants of the said parish of Whitby, continued in like manner to sit in and enjoy the said seat, stall, or pew in contest without the least molestation or disturbance from any person whatsoever, and that the said James Yeoman died about twenty years ago, and after his death his widow Barbara Yeoman, about fifteen years ago, removed with her daughter from Whitby to York, and that the said Barbara Yeoman, the widow of the said James Yeoman, died at York about eight years ago, and that neither she nor her daughter had resided at Whitby since they first removed from thence to York, and that Mary Hutchinson, widow, was the daughter of the said Christopher and Mary Bagwith, and that she about twelve years ago married James Hutchinson, of Whitby, now deceased, by whom she had four daughters who were then living, and that she the said Mary Hutchinson, with her said husband and children, during his lifetime continued to sit in and enjoy the seat, stall, or pew in question, as she and her said children since his death with one of her sisters had continued to do without the least molestation or disturbance of any person whatsoever save of William Swales, and that she the said Mary Bagwith, widow, was a parishioner

parishioner and inhabitant of the parish of Whitby aforesaid, had an estate in housing in the town of Whitby of the yearly value of twenty-six pounds and upwards, and kept a linen-draper and mercer's shop, that she was rated, assessed, and paid to all church and other assessments rateably and proportionably with the rest of the parishioners of the said parish; that her family consisted of herself and two daughters besides servants, who were due frequenters of their parish church, that the said Mary Hutchinson, widow, was also a parishioner and inhabitant of the parish of Whitby, had an estate in housing belonging to herself and children of the yearly value of seventy pounds and upwards; that she carried on the making trade and a considerable brewery, and she was rated, assessed, and paid to the church and all other assessments rateably and proportionably with the rest of the parishioners of the said parish; that her family consisted of herself and four children besides servants, who were due frequenters of their parish church, and had no other seat, stall, or pew to resort to to hear divine service or sermons in than the seat, stall, or pew in contest, save a small pew which belonged to the said Mary Bagwith, which would not hold more than three persons to sit therein, and which was generally filled by the said Mary Bagwith, one of her three daughters, and one Mrs. Cockerill, a relation, and that the said William Swales's family only consisted of himself, his wife, and one child, and they were provided with seats or sittings for themselves in a large commodious pew in a gallery on the east side of the north aisle of the parish church of Whitby aforesaid, which conveniently holds eight or nine persons, and that the said William Swales had no other estate in the parish of Whitby than a house in Bagdall near the town of Whitby, which was lately purchased of Miss Barbara Yeoman, the daughter of the before-mentioned James Yeoman and Barbara his wife, deceased, and although the said William all the aforesaid matters by him here above suggested hath pleaded and alledged in the spiritual court before the said spiritual judge, in order to his discharge from the said spiritual court, and hath been and is ready to prove the same; yet the said spiritual judge hath altogether refused and still refuses to admit or allow the said plea, allegation, and proof, and is endeavouring and attempting to condemn the said William in the premises by a definitive sentence of the said spiritual court, and daily threatens the same, to the great contempt of the lord the now king and his laws, to the great and manifest damage, prejudice, and injury of the said William, against the form of the statute in such case made and provided, and also against the form of the aforesaid prescription, and this he is ready to verify; wherefore he humbly imploring the aid and munificence of this honourable court prays relief and his majesty's writ of prohibition to be directed to the aforesaid spiritual judge, and also to all other spiritual judges competent in this behalf to prohibit them and every of them that they nor any of them do any further hold

PROHIBITION, PROCEEDINGS IN.

cognizance of the said plea touching the premises aforesaid before them or any of them, and it is granted to him, &c.

W. BALDWIN.

Prohibition for
church-rate.

ENGLAND. Be it remembered that on Tuesday next, after the octave of Saint Hilary in this same term, before our lord the king at Westminster, comes W. B. by J. E. his attorney, and gives the court of our said lord the king, before the king himself, to understand and be informed, that the parish of Halifax, in the county of Y. now is, and from time immemorial hath been a parish of very large extent, and that within the said parish there now are, and from time whereof the memory of man is not to the contrary there have been diverse, to wit, nine divisions or districts called (here insert their names), each and every of the said nine divisions consisting of a large district of the said parish, and during all the time aforesaid there have been and of right ought to be chosen and appointed by the parishioners and inhabitants of the said parish yearly in Easter week diverse fit and proper persons to be churchwardens of the said parish to serve the said office for one whole year then next following; and that the said parishioners, inhabitants of the said town of H. for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen two persons of the inhabitants of the said town to be two of the churchwardens of the said parish for the year then next ensuing, which two persons so chosen by the inhabitants of the said town, during the whole time aforesaid, have been two of the churchwardens of the said parish, and have been called churchwardens of the town of H.; that the parishioners of the said parish inhabiting within the said parish, or division of the said parish called Sowerby, for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen one person of the inhabitants of that district to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the said inhabitants of the said district called Sowerby, during the whole time aforesaid, hath been one of the churchwardens of the said parish, and usually called chappelwarden of Sowerby: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Sowerby, for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen one person of the inhabitants of that district to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the inhabitants of the said district called Southam during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappelwarden of Southam: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Northam, for the time being, respectively during the whole time aforesaid have in the

the week of Easter yearly chosen one person of the inhabitants of that district to be one other churchwarden of the said parish for the year next ensuing, which person so chosen by the inhabitants of the said district called Northam during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappelwarden of Northam: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Ovenden, for the time being, respectively during the whole time aforesaid have in the week of Easter chosen one person of the inhabitants of that district or division to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the inhabitants of the said district called Ovenden during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappelwarden of Ovenden: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Skircoat, for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen one person of the inhabitants of that district to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the inhabitants of the said district called Skircoat during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappelwarden of Skircoat: That the parishioners of the said parish inhabiting within the said district or division of the parish called Warby, for the time being, respectively the whole time aforesaid have in the week of Easter yearly chosen one person of the inhabitants of of that district to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the inhabitants of the said district called Warley during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappelwarden of Warley: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Medgley, for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen two persons of the inhabitants of that district to be two other churchwardens of the said parish for the year then next ensuing, which two persons so chosen by the inhabitants of the said district called Medgeley during the whole time aforesaid have been two of the churchwardens of the said parish, and usually called chappelwardens of Medgley: That the parishioners of the said parish inhabiting within the said district or division of the said parish called Hipperholme, for the time being, respectively during the whole time aforesaid have in the week of Easter yearly chosen one of the inhabitants of the said district to be one other churchwarden of the said parish for the year then next ensuing, which person so chosen by the inhabitants of the said district called Hipperholme during the whole time aforesaid hath been one of the churchwardens of the said parish, and usually called chappel-

chappelwarden of Hipperholme: And whereas in the said parish of Halifax there is, and from time whereof the memory of man is not to the contrary there hath been a certain ancient and laudable custom, there used and approved of, that is to say, that the said several churchwardens of the said parish so chosen as aforesaid, for the time being, respectively for and during all the time aforesaid have met together, and have been used and accustomed to meet together, and during all the time aforesaid of right ought to have met together, and still of right ought to meet together monthly on the first Wednesday in every month, at and in the vestry-room of the church of Halifax aforesaid, to treat and consider amongst themselves of the business and affairs of the said parish committed to their care, and amongst other things of what repairs have been necessary and proper to be done in and about the said parish church of H. and such repairs as by the said churchwardens, or the major part of them so met together, have been from time to time thought necessary or proper to be done, have been and ought to have been done thereto, and no other, excepting such repairs as for the maintenance and support of the fabric of the church have been immediately necessary: And whereas all and singular pleas and cognizances of pleas of and concerning all manner of customs and prescriptions arising within this part of Great Britain called England ought to be tried, determined, and discussed, and always hitherto have been used to be tried, determined, and discussed at the common law in the king's courts of record, and not in the ecclesiastical or civil law courts, or by any ecclesiastical judge or ecclesiastical sentences or censures whatsoever: And whereas J. C. and R. B. heretofore, to wit, in the week of Easter in, &c. 1748, being then inhabitants of the town of _____, in the said parish of H. were by the inhabitants of the said town elected and appointed two of the churchwardens of the said parish of H. for the year then next ensuing called the churchwardens of the town of H.; and the said W. B. in the week of Easter in the year aforesaid, being then an inhabitant in the said division or district of the said parish called Sowerby, was duly elected and appointed by the inhabitants of that part of the said parish one of the said churchwardens of the said parish called chappelwarden of Sowerby: And whereas the said J. C. and R. B. while they were such churchwardens as aforesaid, elected and appointed as aforesaid, called churchwardens of the town of Halifax, of their own accord, and with the concurrence, consent, or agreement of the said W. B. or of any other of the then churchwardens of the said parish for that year, laid out and expended large sums of money in new *tuning* and altering of certain chimes belonging to the clock of the said parish church, and in new clipping of certain bells belonging to the said church, and in mending of the frames belonging to the said bells in and about certain ornaments belonging to the said church, pretending a custom within the said parish enabling them

them so to do, and to charge the inhabitants of the said parish with the expence thereof, when in truth and in fact there is not nor ever was such custom; nevertheless the said J. C. and R. B. not ignorant of the premises, but contriving and intending the said W. B. in this behalf, contrary to the due form of law of this realm, unduly and unjustly to oppress and harass, and his present majesty and his crown to disinheret, and the cognizance of a plea which specially belongeth to his majesty and his royal crown to draw to another examination in the court christian, caused the said W. B. to be cited to appear in the court christian before W. H. doctor of laws, official principal of the consistory court of York, lawfully authorized, or his surrogate, or any other competent judge in that behalf, of and for his refusal to collect or pay to the said J. C. or R. B. the proportion of the inhabitants of that part of the said parish called Sowerby of a pretended rate made by them the said J. C. and R. B. and some few others of the said parish, ioners of the parish of H. residing in that part of the said parish which lies in the town of H. aforesaid, for reimbursing them the money by them the said J. C. and R. B. expended on the occasion, and for the purpose aforesaid wickedly and subtilly libelling against the said W. B. in the said court christian before the said spiritual judge in that that behalf in manner following, to wit, that by the canons, constitutions, and ecclesiastical statutes of this realm of England, and also by a certain ancient and laudable custom or prescription for these ten, twenty, thirty, forty, fifty, and sixty years last past and more, inviolably used and observed within the said realm of England, the building and repairing and amending of the naves or bodies of the parish churches within the said realm, and also of the walls, windows, roofs, steeples, bells, and other things in such steeples and other defects in the same, the providing of ornaments and other necessities wanting in and about such churches hath and still doth belong and appertain to the parishioners and inhabitants of and within such parishes, and to the owners, possessors, occupiers, and enjoyers of houses, lands, and tenements situate, lying, and being within the parishes aforesaid, and especially the repairing and amending of the nave or body of the parish church of H. aforesaid, and also the walls, windows, roofs, steeple, bells, and other things in the steeple, and other defects of the said church, and the providing ornaments and other necessities wanting in, for, or about the same, and hath, and still doth by the laws, statutes, customs, and prescriptions aforesaid, belong and appertain to the parishioners and inhabitants of and possessors and occupiers of houses, lands, and tenements situate, lying, and being within the said parish, and propounded of such time, place, manner, and form of the premises, and of the lands, canons, constitutions, and customs as by the confession of the adverse party, or lawful proofs to be had and made in that cause should appear, and jointly and severally in that article contained that for these ten, twenty, thirty, forty, fifty, and sixty years and upwards there hath been, as there still then was a parish church known by the name of

of Halifax church situate in the diocese of York, and endowed with all manner of parochial rights, they propounding of such time, place, manner, and form of the premises, and jointly and severally as before: That in the several months of the year of Our Lord 1748 aforesaid, or some one or other of the said months the said parish church of H. was ruinous and in decay in the roofs, walls, windows, steeple, bell-frames, bells-ropes, and chimes, or in some one or more thereof, and in diverse other parts of the same; and several necessaries and ornaments suitable and fit for the same parish church were therein wanting during the said time, all which were needful and proper to be repaired, amended, and provided with as much convenient speed as might be, and could not be done with less than the sum of one hundred and six pounds thirteen shillings and ten-pence, which sum the said T. C. and R. B. did really and actually pay and expend for the repairs of the parish church of H. and other proper and necessary charges for the said year 1748, as churchwardens of and for the said town of H. being the custom for time immemorial for the churchwardens of and for the said town for the time being to take care and see that all repairs and necessaries wanting in and about the said church should from time to time be amended and supplied, and to dispose of the monies necessary to be laid out about the said church, and they propounded of such sum or sums of money in manner and form of the premises jointly and severally as before: That for ten, twenty, thirty, forty, fifty, and sixty years then last past and more for time immemorial the parish of H. in that cause named with regard to the church-rates and disbursements had been and was divided into nine parts, and under the following heads or divisions, to wit, Halifax aforesaid, Sowerby, &c. within the parish of H. aforesaid, and for all the said time when the sum of eleven shillings and five-pence farthing was laid out and expended in the repairs of the church of H. aforesaid, and other things to the same belonging, and necessaries and ornaments wanting therein, H. paid one shilling and seven-pence three farthings, Sowerby one shilling and seven-pence three farthings, &c. and so in proportion for any greater and lesser sum, and he propounded of such sum and sums of money, time, custom, manner, and form of the premises, and jointly and severally as before; that the disbursements of the said J. C. and R. B. for the year 1748 for the proportion in the said article mentioned amount to the sum of one hundred and sixty pounds thirteen shillings and ten-pence, the same was pursuant to the said custom proportioned in the following manner, to wit, H. fifteen pounds seven shillings and three half-pence, Sowerby fifteen pounds seven shillings and a penny three farthings, &c. and they propounded of any other sum and sums of money in manner and form of the premises as should appear from the proofs to be made in that cause, and jointly and severally as before: [That it had all along been the custom after the disbursements of the churchwardens for the town of H. had been stated and divided by the churchwardens of H. aforesaid,

aforesaid, agreeable to the method before specified for the churchwardens of and for the town of H. aforesaid, to give, deliver, or send a note, or account of the sum total of the whole year's disbursements, and also an account of the shares or proportions thereof to the respective chappelwardens of Sowerby, &c. who had constantly and all along raised the sums charged within their several chappelries or division, and paid the same to the churchwardens of the town of H. for the time being, and the said churchwardens of H. had always received of the chappelwardens the entire sum charged upon each chappelry or division, without any regard to the subdivisions or methods of assessing and settling amongst themselves the grievances in that cause excepted], they propounded jointly and severally as before, that pursuant to the said custom a note or account of the sum total of the whole year's disbursements, and also an account of the share and proportion of the chapelry, or division of Sowerby, of the disbursements of the said J. and R. B. stated, divided, and proportioned in the manner specified in the fifth article, being fifteen pounds seventeen shillings and a penny three farthings, was given, delivered, and sent, and had since by or on the part and behalf of the said J. C. and R. B. or one of them, been several times, or once at least, asked and demanded of the said W. B. who was chappelwarden of the chapelry or division of Sowerby aforesaid for the said year 1748, who by custom as aforesaid ought to have paid the same, and had paid the sum of eleven pounds and one farthing in part; but the premises notwithstanding at the present he refused and delayed to pay the sum of four pounds five shillings and sixpence halfpenny being the remainder thereof, and they propounded as before, that the said J. C. and R. B. for some years then last past had been as still they then were inhabitants of and within the town of H. aforesaid, and for all the said time did pay proportionably towards the repairs of the decays and repairs of the said church, and providing ornaments and other necessities therein wanting, and were in the said year 1748 churchwardens of and for the said town of H. duly elected, admitted, and sworn, and therefore had interest to proceed for the proportion of their disbursements in that cause sued for; and they propounded as before that the said W. B. had been and then was of the parish of H. in the diocese of York, and by reason thereof subject to the jurisdiction of that court; and they propounded as before that all and singular the premises had been and were true, public, and notorious, and thereof there had been and was public voice and fame within the parish of H. aforesaid, and other neighbouring and adjacent places; and they propounded as before; wherefore proof sufficient in law being made to the premises the parties present prayed right and justice to be done and administer to them and their party; and the said W. B. not only being condemned in the sum of four pounds six shillings and five-pence halfpenny, being the remainder of the proportion
of

of the disbursements of the said J. C. and R. B. for the said chappelry or division of Sowerby for the said year 1748, but also in expences by and on the part and behalf of the said J. C. and B. R. by reason of that suit necessarily made or to be made humbly imploring a sentence or final decree to compel the said W. B. to pay both the remainder of the said proportion of the said disbursements and expences, and right and justice to be done to them and their parties by definitive sentence, or final decree of the said spiritual judge to be given in that cause; and further to do and decree in the premises what should be lawful in that behalf, not obliging themselves to do and to prove all and singular the premises, or to the burthen of superfluous proofs, against which the party proponent protested and prayed so far as he should prove in the premises he obtained of the law being always preserved, humbly imploring the aid of the office of the said spiritual judge in that behalf, as by a copy of the said libel more fully and at large appears; and although the said W. B. in the said court christian hath denied the said custom pretended by the said J. C. and R. B. to be and to have obtained within the said parish; and although the said W. B. all and singular other the matters by him here suggested hath pleaded and alledged the said court christian before the said spiritual judge, in order to discharge him the said W. B. from the said court christian before the said spiritual judge, and hath offered to prove the same by undeniable testimony and truth; yet the said spiritual judge hath altogether refused to admit and allow or receive the said plea or allegation, and him the aforesaid W. B. by the definitive sentence of the said court christian of and upon the premises to condemn, doth endeavour and daily labour in contempt of our said lord the king, to the manifest damage and apprehension of the said W. B. and against the laws of this realm; and this the said W. B. is ready to verify; wherefore the said W. B. humbly imploring the assistance of this court of our said lord the now king here prays remedy, and his majesty's writ of prohibition to be directed to the aforesaid spiritual judge and other competent judges in this behalf whatsoever, to prohibit him, them, and every of them that they, or any of them attempt not or presume to hold pleas before them or any of them in anywise touching the premises, &c.; and it is agreed, &c.

Suggestion for
prohibition
sithes.

ENGLAND, to wit. Be it remembered that on the sixth day of May in this same term, before our lord the king at Westminster, comes William Falkner, by John Ellis his attorney, and gives the court of our lord the king, before the king himself, to understand and be informed, that whereas the trial of the bounds and limits of all parishes and villages whatsoever within this kingdom are, and from time whereof the memory of man is not to the contrary have been accustomed to be and ought to be tried and triable at and by the common law of this realm, and not by any ecclesiastical

ecclesiastical court whatsoever: And whereas one George Rice now is, and for diverse, to wit, ten years last past hath been seised in his demesne as of fee of and in three acres of land with the appurtenances, in the parish of Skendleby, in the county of Lincoln, and being so seised thereof, he the said George Rice, on the second day of February 1797, demised the said three acres of land with the appurtenances unto the said William Falkner, to hold to him the said William Falkner and his assigns for the term of one whole then next ensuing, and so from year to year for so long time as it should please the said George Rice and the said William Falkner, by virtue of which said demise the said William Falkner entered into the said three acres of land with the appurtenances, and became and was and still is possessed thereof: And whereas the said three acres of land with the appurtenances and every part thereof now lie, and from time whereof the memory of man is not to the contrary have lain within the parish of Skendleby aforeaid, and within the bounds, limits, and titheable places of the said parish, and not within the parish of Ulceby with Forthington, in the county of Lincoln, and the bounds, limits, and titheable places of the said last-mentioned parish; yet Edward Bayly, clerk, rector of the rectory of the parish church of Ulceby with Forthington, in the county of Lincoln, well knowing the premises aforeaid, but contriving and subtilly intending and devising in disherison of our said lord the now king and his crown to draw pleas which belong to our lord the king and his royal prerogative to another trial in the spiritual court, under colour and pretence that the said three acres of land lay within the parish and rectory of Ulceby with Forthington, in the county of Lincoln, and the bounds, limits, and titheable places of the same hath wrongfully and unjustly drawn into the plea the said William Falkner in the spiritual court, before the worshipful Richard Reynolds, esquire, master of arts, official of the archdeaconry of Lincoln, lawfully constituted, his surrogate, or some other competent judge in this behalf, and hath in the said spiritual court libelled and alledged before the said spiritual judge against the said William Falkner amongst other things, that in the months of January, February, March, April, May, June, July, August, September, October, November, and December, 1769, and in all some or one of the said months the said William Falkner had held and occupied the said three acres within the parish of Ulceby with Forthington aforeaid, and the bounds, limits, and titheable places of the same, which he caused to be sown with barley, and from his three acres of land had and received two hundred cocks of barley, which he took and carried away, sold, or disposed of the same, or converted to his own use, without setting out the tithe thereof; and in that case the said three acres of land were not situate, lying, and being within the parish of Ulceby, with Forthington aforeaid; nevertheless they were situate, lying, and being in the titheable place or places of or belonging to the said rectory and parish church of Ulceby with Forthington

Forthington aforesaid; and although the said three acres lie, and from time whereof the memory of man is not to the contrary have lain within the parish of Skendleby, and the bounds, limits, and titheable places of the said parish of Skendleby, and not within the parish of Ulceby with Forthington, or the bounds, limits, or titheable places of or belonging to the said rectory and parish church of Ulceby with Forthington aforesaid; and although the said William Falkner hath pleaded and alleged and offered to prove the same before the said spiritual judge, yet the said spiritual judge hath wholly refused to admit the said plea, allegation, and proof; and the said Edward Bayly designing and intending to oppress and vex the said William Falkner in this behalf, and to draw from our said lord the king the cognizance of a plea which belongs to our said lord the king, and not before any ecclesiastical judge whatsoever is proceeding in the said suit, before the said ecclesiastical judge, as much as in him lies, to procure the sentence of the said ecclesiastical judge against the said William Falkner of and upon the premises aforesaid, in contempt of our said lord the king and his crown, to the great damage of the said William Falkner, and contrary to the law of this realm; and this he is ready to verify; wherefore the said William Falkner humbly imploring the aid and assistance of this honourable court prays speedy relief, and his majesty's writ of prohibition to be directed to the said spiritual judge, or to any other competent judge in this behalf to prohibit them and every of them that they hold no other plea whatsoever in the court christian before them or any of them touching the premises aforesaid.

W. BALDWIN.

Prohibition to the spiritual judge from holding plea of a libel for non-payment of a rate assessed by the church-wardens in pursuance of an agreement by the parishioners for the repairs of the church and fences and walls of the church-yard, and other monies expended by the overseers and church-wardens of the said parish.

ENGLAND, to wit. Be it remembered that on Saturday next, after the morrow of the Purification of the blessed Virgin Mary, in this same term, before our lord the king at Westminster, comes John Bush, of the parish of Blandford Forum, in the county of Dorset, yeoman, in his own person, and gives the court of our lord the now king, before the king himself, to understand and be informed, that all and singular pleas and cognizances of pleas, concerning all and all manner of prescriptions and customs, and also of freehold and title of any person or persons, or any lands or tenements now are, and from time whereof the memory of man is not the contrary have been matters and things merely triable and determinable at and by the common law of this realm, and not by any ecclesiastical laws or censures whatsoever, and have always been used and accustomed to be tried and discussed at and by the common law, and not by any ecclesiastical laws or censures whatsoever: And whereas one Thomas Rynes, esquire, on the thirtieth day of September, A. D. 1745, was and from thence hitherto hath been and still is seized in his demesne as of fee of and in the manor of Damary Court, with

with the appurtenances, in the said county of D. of which said manor with the appurtenances a certain farm, consisting of a messuage and dwelling-house, to wit, two hundred acres of land with the appurtenances, and called and known by the name of Damary Farm, situate, lying, and being in the parish of Blandford Forum aforesaid, then was, and from time whereof the memory of man is not to the contrary hath been parcel; and being so thereof seised, he the said T. R. and all those whose estate he now hath, and during all the time aforesaid had of and in the said manor of Damary Court with the appurtenances, whereof the said farm called Damary Farm is, and for all the said time aforesaid was parcel as aforesaid for the time being, from time whereof the memory of man is not to the contrary have yearly and every year paid, and have been used and accustomed to pay, and of right ought to pay to the churchwardens of the said parish of B. F. aforesaid for the time being, at one entire payment, to wit, at and upon the Feast of Easter in every such year, or so soon after as the same hath been demanded, the yearly sum of twenty shillings, to be paid, laid out, and expended in and about the repairing the church of the said parish, and the walls and fences of the churchyard of the said parish of B. F. and other necessities to be paid, laid out, and expended, in performing the duties of and belonging to the office of churchwardens of the said parish, which said annual or usual sum of twenty shillings, so payable and paid to the said churchwardens of the said parish for the time being, have yearly and every year for and during all the time aforesaid been accepted and received, and of right ought to have been accepted and received by them; and the churchwardens of the said parish for the time being still of right ought to accept and receive the same as aforesaid, at the time aforesaid, for the purpose aforesaid; and in consideration of the said annual or yearly sum of twenty shillings so payable and paid aforesaid, for all the time aforesaid, he the said T. R. and all those whose estate he now hath, and for all the time aforesaid had of and in the said manor of Damary Court with the appurtenances, whereof, &c. for the time being, for all the said time, whereof the memory of man is not to the contrary have been and of right ought to be, and still are and of right ought to be for themselves, their tenants, and occupiers of the said manor, whereof, &c. with the appurtenances for the time being, or any part thereof, free and exempt from the payment of any rates and assessments made or to be made for the repairing of the church of the said parish, or the walls and fences of the churchyard of the said parish, and other necessities to be paid, laid out, and expended in performing the duties of and belonging to the office of churchwardens of the said parish of B. F. aforesaid; and the said T. R. so being seised of the said manor with the appurtenances, whereof, &c. he the said T. R. afterwards, to wit, on the thirtieth day of September, A. D. 1745, aforesaid, at the parish of B. F. aforesaid, demised the said farm called Damary Farm, with the appurtenan-

PROHIBITION, DECLARATION IN.

ces, parcel, &c. to the said J. B. to hold the same unto the said J. B. his executors, administrators, and assigns, from the Feast of Saint Michael the Archangel then last past, unto the full end and term of sixty years from thence next ensuing, and fully to be complete and ended, by virtue of which said demise the said J. B. afterwards, to wit, on the said thirtieth day of September, A. D. 1745 aforesaid, entered into the said farm with the appurtenances, parcel, &c. and was and still is thereof possessed for the said term to him thereof demised as aforesaid; yet George Galapin, late of B. F. aforesaid, well knowing all and singular the premises as aforesaid, but contriving and maliciously intending to prejudice, oppress, and injure the said J. B. against the due form of law, and against the form of the statute in such case made and provided, and also against the form of the said prescription, and to disinherit our lord the now king, and draw the cognizance of a plea which belongs only to our lord the now king and his royal prerogative to another trial in the spiritual court, before the reverend William Carey, clerk, master of arts, vicar-general, and official principal to the right reverend father in God, Joseph, by divine permission, lord bishop of Bristol lawfully constituted as lawful surrogate, or some other competent judge in that behalf of and for the subtraction and non-payment of a certain sum of money imposed or pretended to be imposed on him as tenant or occupier of the said farm called D. F. with the appurtenances, parcel, &c. being a certain rate made for the raising of money for the repairing of the said parish church of B. F. aforesaid, and the walls and fences of the churchwardens of the said parish, craftily and subtilly libelling against the said J. B. in the said spiritual court, in form following, to wit, first, that in A. D. 1747, the parish church of B. F. aforesaid, and the walls and fences of the churchyard thereto belonging, were much out of repair, the churchwardens, overseers, and other parishioners of the said parish, met together to consult of a proper method to have such repairs had and done, and accordingly they did agree that the parishioners of the said parish should be summoned to meet in vestry to consider of a proper method; and that had been and was true, public, and notorious; and the party proponent did alledge and propound of every thing propounded in that article general and special: Secondly, that in pursuant of the premises mentioned in the foregoing article the churchwardens and overseers of the poor, and divers other of the parishioners of the said parish, in or about the fourteenth day of May, in the then present year of Our Lord 1747, did (after due notice first given) meet together at the town-hall within the said parish of B. F. or other public place appointed for that purpose, to consider of doing the aforesaid repairs, and for the ways and means of raising a sum of money sufficient and necessary for defraying the necessary expences, charges, and disbursements thereof, and other necessities to be laid out and expended in performing the duties of and belonging to the office of churchwardens,

The libel in the
spiritual court.

churchwardens, and did then and there agree that every inhabitant and parishioner of the said parish of B. F. aforesaid should be rated and assessed a farthing in the pound, according to the annual rent which each parishioner paid for his estate, house, or tenement in the said parish, or according to the real value thereof, and also the like sum on the trade which each and every parishioner of the said parish carried on within the said parish, and a rate was made and agreed to accordingly, wherein every person was duly and equally rated; and that had been and was true; and the party proponent did not alledge of any other time or times, sum and sums of money, except as before: Thirdly, that the rate in the next preceding article mentioned amounted to the sum of four pounds sixteen shillings, and was at the aforesaid meeting agreed and ordered to be collected six times of each and every of the inhabitants and parishioners so as aforesaid rated and assessed, which in the whole amounted to the sum of twenty-eight pounds sixteen shillings; and that had been and was true; and the party proponent did alledge and propound no other sum and sums of money, unless as before: Fourthly, that the said J. B. before and at the time of making the said rate or assessment had been and was a parishioner and inhabitant of the said parish of B. F. and was equally and in proportion to the rest of the parishioners of the said parish rated in his own name in the said rate four shillings and nine-pence halfpenny for an estate or farm called Damary Farm, which lay within the said parish of B. F. which he rented at two hundred and thirty pounds a year or thereabouts, and which he held and occupied before and at the time of making the said rate and assessment, and then still held and occupied the same as tenant to T. R. esquire, which said sum of four shillings and nine-pence halfpenny being collected six times, according to the said order of vestry in the second article mentioned, amounted to the sum of one pounds eight shillings and nine-pence; and that had been and was true; and the party proponent did alledge and propound of no other sum and sums of money, unless as before: Fifthly, that the party proponent for supply and proof of the premises, and to all intents and purposes in law, did exhibit and leave in the registry of that court a book, wherein was contained the aforesaid rate or assessment, as also the order of vestry for making the same, as mentioned in the second article of the said libel, and did alledge that all and singular the contents thereof had been and was true, and so had and done as was therein contained, and that in conformity to and compliance with the said rate most of the parishioners of the said parish had paid and satisfied the respective sums of money assessed and charged on them thereby; and the party proponent did alledge and propound as before: Sixthly, that the said G. G. and George Elkins were parishioners of the said parish of B. F. and duly sworn and admitted for the year of Our Lord 1746, and were continued churchwardens for the said then present year 1747; and that had been and was true, public, and notorious; and the party proponent did alledge and

propound as before: Seventhly, that the said J. B. had been often, at least once, asked and requested to pay to the said G. G. and G. E. the said ten pounds eight shillings and nine pence so as aforesaid rated and assessed, *and most notoriously*, which he had and still doth refuse to pay the same; and the party proponent did alledge and propound as before: Eighthly, that the said J. B. had been and was a parishioner and inhabitant of the said parish of B. F. and by reason thereof subject to the jurisdiction of that court: Ninthly, that of and concerning the premises it had been and was on the part and behalf of the said G. G. and G. E. rightfully and lawfully complained of to the said spiritual judge and to the spiritual court; and the party proponent did alledge and propound as before: Tenthly, that all and singular the premises had been and was true, public, and notorious, and thereof there had been and was a public voice, fame, and report; of which legal proof being made, the party proponent prayed right and justice to be done and administered to him in this particular in the premises, and also that the said J. B. might be condemned in fine in the aforesaid rate, but also in lawful costs on the behalf of the said G. G. and G. E. by reason of that suit necessary made or to be made and compelled to the due payment thereof by the said judge, or his definitive sentence or final decree to be given in that case; and further to do and decree in the premises what should be lawful in that behalf, and *obliging* themselves to prove all and singular the premises *to the burthen of a satisfactory proof*; against which the party proponent protested and prayed that so far as he had proof in the premises he might obtain the benefit of the law, *being all preserved*, humbly imploring the aid of the *office* of the spiritual court in that behalf, as by the copy of the aforesaid libel more fully appears; and he wrongfully forced and compelled the said J. B. to appear in the said spiritual court before the said spiritual judge, and to answer therein of and concerning the premises aforesaid; and although the said T. R. at the parish aforesaid hath always paid and been ready to pay, and particularly in the said years of Our Lord 1746 and 1747, when the said G. G. and G. E. so were parishioners of the said parish at the parish aforesaid, offered to pay to the said churchwardens of the said parish for the time being the sum of for the purpose aforesaid, according to the form and effect of the aforesaid *prohibition*; and although the said J. B. hath pleaded, alledged, and offered to prove with incontestible evidence and proof of the matter of the said *prohibition*, and all and singular other the matters by him above suggested in the aforesaid spiritual court before the said spiritual judge, yet the said spiritual judge hath wholly refused and still refuses to admit the said plea, allegation, and proof in his endeavouring and attempting with all his might to condemn the said J. B. in the premises by a definitive sentence of the said spiritual court, and daily threatens the same, to the great contempt of our lord the now king and his laws, to the manifest damage, prejudice, injury, and impoverishment of the said J. B.

and

and against the form of the statute in such case made and provided, and also against the form of the said prohibition; and this be the said J. B. is ready to verify; wherefore the said J. B. humbly imploring the aid and munificence of this honourable court prays relief, and his majesty's writ of prohibition to be directed to the said spiritual judge, and all other spiritual judges competent in this behalf, to prohibit them and every of them that they nor any of them do no further hold cognizance of the aforeaid plea touching the premises aforeaid, before them or any of them; and it is granted to him, &c.

Michaelmas, 9. Geo. II.

GREAT BRITAIN, to wit. Be it remembered that on Thursday next after three weeks from the day of Saint Michael in this same term, before our lord the king at Westminster cometh George Burrell, late master of the ship called the George and Francis, in his proper person, and giveth the court here to understand and be informed, that whereas in the statute made in the parliament holden at Westminster, in the county of Middlesex, in the thirteenth year of the reign of the late king Richard the Second after the conquest, late king of England, amongst other things it was ordered and assented that the admiralty and their deputies should not meddle from thenceforth of any thing done within the realm, but only of a thing done upon the sea, as it had been used in the time of the noble prince king Edward, grandfather of the said late king Richard the Second, as in the said statute amongst other things it is more fully contained: And whereas by another statute made in the parliament holden at Westminster aforeaid, in the fifteenth year of the reign of the said late king Richard the Second after the conquest, amongst other things it was declared, ordained, and established, that of all manner of contracts, pleas, and quarrels, and of all other things done and arising within the bodies of counties as well by land as by water, and also the wreck of the sea, the admiralty court should have no manner of cognizance, power, nor jurisdiction, but all such manner of contracts, pleas, and quarrels, and all other things rising within the bodies of counties as well by land as by water as aforeaid, and also wreck of the sea, should be tried, determined, discussed, and remedied by the laws of the land, and not before nor by the admiral nor his lieutenants in anywise, as in the said statute amongst other things it is fully contained: And whereas by another statute made at the parliament holden at Westminster aforeaid in the second year of the reign of the late king Henry the Fourth, late king of England, &c. amongst other things it was ordained and established that the said statute of the said thirteenth year of the said late king Richard the Second should be firmly holden, kept, and put in due execution, as in the said statute amongst other things it is fully contained: And whereas all and singular pleas of trespass upon the case, and all actions per-

Suggestion for a prohibition at the court of admiralty, for a person libelled against in that court for an assault.

sonal, and controversies whatsoever made, had, or arising by land or by water within the body of any county of England, and other such pleas and causes and the cognizance thereof, specially belong and appertain to the lord the king and to his royal crown, and in time past and always hitherto have been used and accustomed to be tried and determined by the law of England, in the king's temporal courts of record, and not before the admiral of England, nor ought in any manner to be tried or discussed by the admiral or his lieutenant or deputy; nevertheless one John Laws, not being ignorant of the premises, but designing unduly to aggrieve, oppress, and trouble the said George Burrell, against the form and effect of the said statutes, and to draw the cognizance of plea which especially belongeth to and appertaineth to his said majesty and his royal crown to another determination in the court of admiralty before the worshipful Sir H. Penrise, knight, doctor of laws, lieutenant judge, and president of the high court of admiralty of England lawfully constituted, of and concerning a certain assault and battery done and committed by the said G. Burrell in and upon the said John Laws, out of the jurisdiction of the said court of admiralty, and on that account caused the said G. B. by virtue of a certain process of the said court of admiralty to be arrested in the body of a county, to wit, at London, in the parish of Saint Mary-le-bone in the ward of Cheap, and him the said G. B. there under that arrest there yet to be determined, artfully and cunningly libelling and articulating in the said court of admiralty against the said G. B. as followeth: *Imprimis*, that in the month of July or August, in the year of Our Lord, &c. [here the libel sets forth an assault and battery committed on John Laws by G. Burrell on the high seas at Stockholm river, and concludes with humbly imploring the aid of said judge in this behalf, as by a copy of the said libel now in court produced and read it doth more fully appear,] whereas in fact no such assault and battery as mentioned in the said libel was done or committed by the said G. B. upon the said J. L. upon the high sea, nor within the jurisdiction of the court of admiralty aforesaid, but the same were done and committed within the body of a county, to wit, at London aforesaid, in the parish and ward aforesaid: And the said John Laws hath unjustly compelled the said G. B. to appear on occasion of the said premises in the said court of admiralty before you the said sir H. Penrise, judge of the said court, to answer the said J. L. of and upon the premises aforesaid, and although the said G. B. all and singular the premises by him above suggested hath pleaded and alledged in the said court of admiralty before you the said sir H. P. in his discharge of the premises, and hath offered to prove the same by inevitable truth and testimony, yet you the said sir H. P. judge of the said court of admiralty, have wholly refused to admit the plea, allegation, and proof aforesaid, and the said J. L. hath used his utmost efforts and endeavours, and daily contrives by definitive sentence of the
said

said court of admiralty to condemn the said G. B. in the said premises in the said court of admiralty, in contempt of his majesty, in disherison of his own royal crown and dignity, and to the prejudice, impoverishment, and manifest grievance of the said G. B. and against the laws and customs of the realm, and against the form and effect of the several statutes in that case made and provided, and this he is ready to verify; whereupon the said G. B. humbly imploring the assistance and munificence of this court, prays remedy and his writ of said prohibition to be directed to the aforesaid judge or other competent judge in that behalf whatsoever, to prohibit them and every of them that they or any of them may not further hold plea before them or any of them in anywise touching the premises aforesaid, and it is granted him, &c.

C. P. Michaelmas Term, 29. Geo. III.

MIDDLESEX, to wit. Nathaniel Atkins, late of Westminster, in the county of Middlesex, gentleman, and John White, of the same place, gentleman, were attached to answer Alexander Brymer, Henry Newton, and Alexander Thomson, who sue in this behalf as well for our sovereign lord the king as for themselves in a plea; wherefore they prosecuted a plea against the said A. B. H. N. and A. T. before his said majesty's commissioners for receiving, hearing, and determining of appeals from the said lord the king's courts of admiralty in matter of prize, contrary to the king's prohibition, and thereupon the said A. B. H. N. and A. T. who sue in this behalf as well for our said lord the king as for themselves, by Thomas Searl their attorney, complain, that whereas all and all manner of pleas of and concerning the validity, explanation, interpretation, construction, or exposition of the laws and statutes of this realm, and the cognizance of such pleas belong and appertain to the said lord the king and his royal crown and to the common law, and in the courts of our said lord the king did in the second year of his reign by his commission nominate, constitute, ordain, and appoint all and every of his privy counsellors for the time being, and others then named, or any three or more of them to be his commissioners for receiving, hearing, and determining of appeals from the said lord the king's courts of admiralty in matters of prize: And whereas the said courts of admiralty and the said commissioners of appeal proceed by some law differing from the common law of this realm, and have therefore no power or authority to try or discuss the validity, explanation, interpretation, construction or exposition of

Declaration in prohibition, to commissioners on appeal from the admiralty court where vessel and cargo was condemned and sold, sentence reversed by commissioners, upon petition an account of invoice of sale was taken and referred to the register of the admiralty court, who made his report that ship and cargo amounted to 3455l. 3s. 6d. and more than the sum for which the ship and cargo were actually sold, by the certificate of the vendue master, and which report was confirmed by commissioners who

issued their monition against the sureties, plaintiffs in prohibition, the principal not being found, to compel payment of that sum, who suggested for prohibition that the court of viceadmiralty had no authority to take any security of the nature and on terms mentioned in the declaration, nor the commissioners power to enforce the same, and that they had no power by reference of invoice of accounts to registers to alter the valuation fixed by public sale after condemnation where no fraud is proved.

any act or acts aforesaid, nor to expound them otherwise than is warranted and allowed by the common law aforesaid: And whereas a statute was made in the parliament of the said lord the king held at Westminster, in the county of Middlesex, in the sixteenth year of his reign, entitled, “ An Act to prohibit all Trade and Inter-
 “ course with the Colonies of New Hampshire, Massachusetts
 “ Bay, Rhode Island, Connecticut, New York, New Jersey,
 “ Pennsylvania, the Three Lower Counties on Delaware, Ma-
 “ ryland, Virginia, North Carolina, South Carolina, and
 “ Georgia during the continuance of the present Rebellion,” within the said colonies respectively for repealing an act made in the fourteenth year of the reign of his present majesty to discontinue the landing and discharging, lading, or shipping of goods, wares, and merchandises at the town and within the harbour of Boston, in the province of Massachusetts Bay, and also two acts made in the last sessions for restraining the trade and commerce in the said acts respectively mentioned, and to enable any person or persons appointed and authorised by his majesty to grant pardons, issue proclamations in the cases and for the purposes therein mentioned: And whereas in the said statute it was among other things enacted that the execution of any sentence so appealed from, as in and by the said act is directed, should not be suspended by reason of such appeal, in case the party or parties appellate should give sufficient security, to be approved of by the court in which such sentence should be given, to restore the ship, vessel, goods, or effects concerning which such sentence should be pronounced, or the full value thereof to the appellant or appellants, in case the sentence so appealed from should be reversed: And whereas Hugh Bromage, commander of the said lord the king’s sloop of war the Savage, in obedience to the order of Samuel Graves, esquire, commander in chief of his majesty’s ships and vessels at the time herein after next mentioned employed in the river St. Lawrence and along the coasts of Nova Scotia, the islands of St. John and Cape Breton, and thence to Cape Florida and the Bahama Islands, being then and there subject to and under the command of the said Samuel Graves, such commander in chief, did on the seventeenth of January 1776 seize as prize in the harbour of Halifax, in the province of Nova Scotia aforesaid, a certain ship or vessel called the Nicholas, Nathaniel Atkyns, master, the property of certain persons, inhabitants of the said colony of Massachusetts Bay: And whereas William Nesbitt, esquire, his majesty’s attorney general for the said province of Nova Scotia, for and on behalf of the said lord the king and of the said Hugh Bromage, did, on or about the twelfth of April, in the said year 1776, institute a suit in his said majesty’s court of vice admiralty aforesaid, before the worshipful James Brenton, esquire, surrogate and deputy of the worshipful Jonathan Sewell, judge deputy and surrogate of the court of vice admiralty of the province of Nova Scotia and the maritime parts thereof, and by the libel by him exhibited in the said suit amongst other things did propound, alledge, and

and declare, that notwithstanding the said acts of parliament of the sixteenth year of the reign of the said lord the king, the said Nathaniel A. master of the ship called the Nicholas, Thomas Boyston, of Boston, in the province of Massachusetts Bay, merchant, aforesaid, or others residing in the province, owners, being one of the rebellious colonies mentioned in the said act, had been trading to Russia and other parts, and there loaded hemp, iron, and Russia linen, being partly naval stores, and from thence proceeded to Great Britain, and cleared out for Halifax in the said province under pretence of carrying the said naval stores and other goods to some of the said rebellious colonies, where the owners of the said ship Nicholas and goods there resided, and the said master with the said ship Nicholas with her cargo having arrived at Halifax in the said month of January 1770, was there with her cargo seized and retained by the said H. B. commander of the ship of war aforesaid, as being the property of persons in the said rebellious colonies, and did thereby for the said lord the king and the said H. B. pray the said court to take the premises in the said libel alledged into consideration, and on due proof to proceed to adjudication, and that the said ship and cargo might be condemned as forfeited to the said lord the king, and that the same might be delivered over to the captor, pursuant to and according to the directions of the said act of parliament: And whereas the said N. A. and John White were afterwards duly admitted in the said court of vice admiralty for and on behalf of themselves and other claimants of the said ship and cargo: And the said James Brenton, being surrogate and deputy as aforesaid, having deliberately and maturely heard the parties to the said suit by their advocates and proctors, and their arguments and proofs, and having enquired into and duly considered of the whole proceedings in the said business, did on the eighth of May, in the said year 1776, pronounce, decree, and declare that the said ship Nicholas, her tackle, apparel, and furniture, and her cargo then laden were rightly and duly seized and taken by the said H. B. and that the said ship, her tackle, apparel, furniture, and cargo, were at the time of the capture and seizure aforesaid as far as appeared to him in violation of the said statute of the sixteenth year of the reign of the said lord the king, and as such ought to be accounted, and liable, and subject to confiscation, and to be adjudged and condemned as and for a good and lawful prize, as being guilty of a breach and violation of the act aforesaid: And whereas the said ship or vessel and the cargo then laden were, after the sentence of condemnation on the fifteenth May in the year aforesaid, sold by the public vendue master at the public auction to the best bidders, for the sum of four thousand eight hundred ninety-seven pounds ten shillings and ten-pence current money of Halifax in Nova Scotia aforesaid, amounting to the sum of four thousand four hundred and eight pounds three shillings of lawful, &c. free and clear of all charges, being the utmost value of the same at Halifax aforesaid: And whereas the said N. A. and J. W. on behalf of themselves and

and of Thomas Boylston and others, claimants of the said ship or vessel and the cargo then laden, did interpose *and* appeal from the sentence of the said court of vice admiralty to the said commissioners of appeals in matters of prize, whereupon the said A. B. H. N. and A. T. did afterwards, to wit, on the sixth of August, A. D. 1776, personally appear before the said James Brenton, surrogate and deputy as aforesaid, and acknowledged jointly and severally that they owed to our sovereign lord the king the sum of nine thousand seven hundred ninety five pounds seventeen shillings and eightpence of the current money of Halifax aforesaid, that is to say, exactly double the amount of the clear monies arising by the public sale as aforesaid, upon condition that the said H. Bromage the party appellate, his agent or attorney, should restore the said ship and her cargo, or the value thereof, to the said appellant or appellants, in case the sentence so appealed from should be reversed \div : And whereas the said appeal was heard before the said commissioners upon the eighteenth of March, A. D. 1780, when the said commissioners were pleased to reverse the sentence of the said court of vice admiralty, and decree the said ship or cargo or the value thereof to be restored to the said appellants: And whereas the said A. B. H. N. and A. T. afterwards, on the fifteenth of March 1781, for and in behalf of the said H. B. paid into the registry of the said commissioners the said sum of four thousand eight hundred ninety-seven pounds eighteen shillings and tenpence of said current money, amounting to the said sum of four thousand four hundred and eight pounds three shillings of lawful, &c. *being the full value and clear amount of the monies arising from the public sale of the said ship and cargo as aforesaid*: And whereas the said N. Atkyns and John White in behalf of themselves and the said other appellants did receive and take out of the said registry the said sum so paid into the said registry as aforesaid, but did refuse the same in satisfaction of their said claim as the full value of the said ship and cargo, and did afterwards petition *the* (1) said commissioners to order certain invoices and accounts of the said ship or cargo to, be referred to the register of the said commissioners for the purpose of fixing, adjusting, settling, and liquidating the value of the said ship and cargo: And whereas *the* (2) said commissioners did, according to the petition, of the said N. Atkyns and John White, refer to Morris Swabey, esquire, one of their deputy registers, the said invoices and accounts, and also the accounts of the sales of the said ship and cargo, signed by the said public vendue master, and certified under the hand of the deputy register of the court of vice admiralty at Halifax aforesaid: And whereas the deputy register of the said commissioners did report that the sum of seven thousand seven hundred and eight pounds seventeen shillings and threepence lawful, &c. ought to be allowed and paid the said N. Atkyns and John White in behalf of themselves and the other claimants of the said ship the Nicholas and the said cargo, which report the said commissioners were pleased on the thirty-first day of January 1782 to confirm: And whereas

monitions

(1) "our."

(2) "our."

monitions and other process having been sued out against the said Hugh Brothage, to compel payment of the said sum of three thousand four hundred fifty-five pounds three shillings and sixpence lawful money as aforesaid, over and besides the said sum of four hundred and forty pounds eight shillings and threepence, paid into the registry of *the* (1) said commissioners as aforesaid, the proper officers to *the* (2) said commissioners returned that the said H. B. was not to be found: And whereas monitions having been thereupon prayed and sued out against the said A. B. H. N. and A. T. the sureties of the said H. B. as aforesaid, an appearance was given them by *the* (3) said commissioners to shew cause against the payment of the said sum of three thousand four hundred fifty five pounds three shillings and sixpence: And whereas on the twenty-seventh day of July, A. D. 1785, the right honourable Charles earl Camden, lord president of *the* (4) council of *the* said lord the king, Thomas earl of Effingham, and Richard lord viscount Howe, three of *the* (5) said commissioners of appeals for receiving, hearing, and determining appeals in prize causes, having heard informations by council, as well in behalf of A. B. H. N. and A. T. the parties cited and intimated in that behalf, as on the part of Thomas B. the owner and proprietor of the ship and cargo decreed to be restored by the interlocutory decree of the said commissioners, pronounced the recognizance dated the sixth day of August 1776, and entered into by them the said A. B. H. N. and A. T. in the said court of vice-admiralty, as sureties to answer the said appeal, in the penal sum of nine thousand seven hundred ninety-five pounds nineteen shillings and eightpence currency, to be forfeited by reason that the aforesaid sentence appealed from had been reversed, and that H. B. esquire, the party appellate, his agent or attorney, had not restored the ship and cargo or the value thereof, agreeable to the said decree of restitution and the condition of the said recognizance, and decreed a monition against the said A. B. H. N. and A. T. to pay the sum of three thousand four hundred fifty-five pounds three shillings and sixpence, being the remainder of the value of the ship and cargo in question, according to the register's report to the said Thomas Boylston or his lawful attorney: And whereas the said court of vice-admiralty had not any authority by the laws or statutes of this realm to take any security of the nature and in the terms hereinbefore mentioned to have been entered into by the said A. B. H. N. and A. T. nor had the said commissioners by the laws and statutes aforesaid any authority to enforce the same: And whereas the said commissioners have no power or authority whatsoever under the statutes aforesaid, or any other statute or laws of this realm, by reference of invoices and accounts to registers or otherwise, to open, re-examine, set aside, or in any manner to alter the valuation of any ship or vessel, or goods and effects so fixed, settled, adjusted, and liquidated by public sale after sentence of condemnation duly pronounced, where no fraud or collusion is alledged and proved:

proved: And whereas the said ship Nicholas, and the goods and effects on board the same were condemned as lawful prize by the said court of vice-admiralty at Halifax aforesaid, and sold by public auction by the vendue master aforesaid to the highest bidders, without any fraud or collusion having been alledged or proved: And whereas the practice of opening, re-examining, setting aside, and altering the valuation of ships or vessels, or goods and effects so fixed, settled, adjusted, and liquidated as aforesaid, is attended with great oppression, vexation, and expence to the parties, and is contrary to the true meaning, intention, form, and effect of the said statute, and other the statutes and laws of this realm; yet the right honourable Charles earl Camden, lord president of the council of the said lord the king, Thomas earl of Effingham, and Richard lord viscount Howe, three of the said commissioners for receiving, hearing, and determining appeals in prize causes, not weighing the said laws and statutes of this realm, but contriving the said A. B. H. N. and A. T. to vex, aggrieve, injure, and oppress, did as aforesaid decree the said A. B. H. N. and A. T. to pay to the said Thomas Boyston or his lawful attorney the aforesaid sum of three thousand four hundred fifty-five pounds three shillings and six-pence over and besides the monies by the said public sale paid into the said registry as aforesaid, as the supposed remainder of the said ship and cargo, according to the said register's report, to the great contempt of the said lord the king and his laws, to the great and manifest damage, prejudice, and injury of the said A. B. H. N. and A. T. and against the form and effect of the said statute, and also against the laws and customs of this realm; and although the said A. B. H. N. and A. T. afterwards, to wit, on the twenty-seventh day of June, A. D. 1787, at Westminster aforesaid, delivered to the said Nathaniel A. and John W. the king's writ of prohibition to the contrary thereof; nevertheless the said Nathaniel and John have not ceased to prosecute their said suit before the said commissioners, but have since prosecuted and still do prosecute the same there against the said A. B. H. N. and A. T. to compel the payment of the said sum of three thousand four hundred fifty-five pounds three shillings and six-pence, according to the said monition of the said Charles earl Camden, Thomas earl of Effingham, and the lord viscount Howe against them the said A. B. H. N. and A. T. notwithstanding the said writ of prohibition to the contrary so delivered to them as aforesaid, in contempt of his said majesty, and to the great damage of the said A. B. H. N. and A. T. and against the prohibition aforesaid; whereupon the said A. B. H. N. and A. T. who as well, &c. say that they are injured and have damage to the value of one hundred pounds; and therefore as well for the said lord the king as for themselves they bring suit, &c.

And

And the said Nathaniel and John, by Edmund James their Plea, and attorney, come and defend the force and injury, contempt and damages, and whatsoever else they ought to defend when the court will please to take the same into consideration, and say, that they have not, nor hath either of them prosecuted, nor do they nor doth either of them prosecute their said suit before the said commissioners against the said Alexander B. Henry N. and Alexander T. who as well, &c., contrary to the said writ of prohibition so delivered to them as aforesaid, as the said A. B. H. N. and A. T. who as well, &c. to compel payment of the said sum of three thousand four hundred fifty-five pounds three shillings and sixpence, according to the said monition of earl Charles Camden, Thomas earl of Effingham, and Richard lord viscount Howe against them the said A. B. H. N. and A. T. who as well, &c. have above thereof complained against them; and of this they put themselves upon the country, &c. but in order to have a consultation in this cause, the said Nathaniel and John say, that the declaration aforesaid and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law to bar the said Nathaniel and John from prosecuting their said suit before the said commissioners against the said A. B. H. N. and A. T. for the purpose aforesaid; and that they the said Nathaniel and John are not under any necessity nor in anywise bound by the law of the land to answer the same; and this they the said Nathaniel and John are ready to verify; wherefore for want of a sufficient declaration in this behalf the said Nathaniel and John pray the judgment of this honourable court, and his majesty's writ of consultation to be granted to them, &c.

Demurrer for consultation.

S. LE BLANC.

And the said Alexander B. H. N. and A. T. as to the plea of the said Nathaniel and John above pleaded in order to have a writ of consultation, say, that the said declaration and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law to bar the said Nathaniel and John from prosecuting their said suit before the commissioners against the said A. B. H. N. and A. T. for the purposes aforesaid; and inasmuch as the said Nathaniel and John do not deny the several matters and things above alledged by the said A. B. H. N. and A. T. they the said A. B. H. N. and A. T. pray judgment, and that the said Nathaniel and John may have no writ of consultation in this cause, &c. and because the justices here will advise themselves of and upon the premises before they give their judgment thereon, a day is therefore given to the parties here until in to hear their judgment thereon, for that the said justices here are not yet advised thereof, &c.

Joinder.

S. LAWRENCE.

At

proved: And whereas the said ship Nicholas, and the goods and effects on board the same were condemned as lawful prize by the said court of vice-admiralty at Halifax aforesaid, and sold by public auction by the vendue master aforesaid to the highest bidders, without any fraud or collusion having been alledged or proved: And whereas the practice of opening, re-examining, setting aside, and altering the valuation of ships or vessels, or goods and effects so fixed, settled, adjusted, and liquidated as aforesaid, is attended with great oppression, vexation, and expence to the parties, and is contrary to the true meaning, intention, form, and effect of the said statute, and other the statutes and laws of this realm; yet the right honourable Charles earl Camden, lord president of the council of the said lord the king, Thomas earl of Effingham, and Richard lord viscount Howe, three of the said commissioners for receiving, hearing, and determining appeals in prize causes, not weighing the said laws and statutes of this realm, but contriving the said A. B. H. N. and A. T. to vex, aggrieve, injure, and oppress, did as aforesaid decree the said A. B. H. N. and A. T. to pay to the said Thomas Boyston or his lawful attorney the aforesaid sum of three thousand four hundred fifty-five pounds three shillings and six-pence over and besides the monies by the said public sale paid into the said registry as aforesaid, as the supposed remainder of the said ship and cargo, according to the said register's report, to the great contempt of the said lord the king and his laws, to the great and manifest damage, prejudice, and injury of the said A. B. H. N. and A. T. and against the form and effect of the said statute, and also against the laws and customs of this realm; and although the said A. B. H. N. and A. T. afterwards, to wit, on the twenty-seventh day of June, A. D. 1787, at Westminster aforesaid, delivered to the said Nathaniel A. and John W. the king's writ of prohibition to the contrary thereof, nevertheless the said Nathaniel and John have not ceased to prosecute their said suit before the said commissioners, but have since prosecuted and still do prosecute the same there against the said A. B. H. N. and A. T. to compel the payment of the said sum of three thousand four hundred fifty-five pounds three shillings and six-pence, according to the said monition of the said Charles earl Camden, Thomas earl of Effingham, and the lord viscount Howe against them the said A. B. H. N. and A. T. notwithstanding the said writ of prohibition to the contrary so delivered to them as aforesaid, in contempt of his said majesty, and to the great damage of the said A. B. H. N. and A. T. and against the prohibition aforesaid; whereupon the said A. B. H. N. and A. T. who as well, &c. say that they are injured and have damage to the value of one hundred pounds; and therefore as well for the said lord the king as for themselves they bring suit, &c.

And

And the said Nathaniel and John, by Edmund James their Plea, and attorney, come and defend the force and injury, contempt and damages, and whatsoever else they ought to defend when the court will please to take the same into consideration, and say, that they have not, nor hath either of them prosecuted, nor do they nor doth either of them prosecute their said suit before the said commissioners against the said Alexander B. Henry N. and Alexander T. who as well, &c. contrary to the said writ of prohibition so delivered to them as aforesaid, as the said A. B. H. N. and A. T. who as well, &c. to compel payment of the said sum of three thousand four hundred fifty-five pounds three shillings and sixpence, according to the said monition of earl Charles Camden, Thomas earl of Effingham, and Richard lord viscount Howe against them the said A. B. H. N. and A. T. who as well, &c. have above thereof complained against them; and of this they put themselves upon the country, &c. but in order to have a consultation in this cause, the said Nathaniel and John say, that the declaration aforesaid and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law to bar the said Nathaniel and John from prosecuting their said suit before the said commissioners against the said A. B. H. N. and A. T. for the purpose aforesaid; and that they the said Nathaniel and John are not under any necessity nor in anywise bound by the law of the land to answer the same; and this they the said Nathaniel and John are ready to verify; wherefore for want of a sufficient declaration in this behalf the said Nathaniel and John pray the judgment of this honourable court, and his majesty's writ of consultation to be granted to them, &c.

Demurrer for consultation.

S. LE BLANC.

And the said Alexander B. H. N. and A. T. as to the plea of the said Nathaniel and John above pleaded in order to have a writ of consultation, say, that the said declaration and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law to bar the said Nathaniel and John from prosecuting their said suit before the commissioners against the said A. B. H. N. and A. T. for the purposes aforesaid; and inasmuch as the said Nathaniel and John do not deny the several matters and things above alledged by the said A. B. H. N. and A. T. they the said A. B. H. N. and A. T. pray judgment, and that the said Nathaniel and John may have no writ of consultation in this cause, &c. and because the justices here will advise themselves of and upon the premises before they give their judgment thereon, a day is therefore given to the parties here until in to hear their judgment thereon, for that the said justices here are not yet advised thereof, &c.

Joinder.

S. LAWRENCE.

At

“ in the last Session for restraining the Trade and Commerce of
 “ the Colonies in the said Acts respectively mentioned, and to en-
 “ able any Person or Persons appointed and authorised by his
 “ Majesty to grant Pardons, to issue Proclamations in the Cases
 “ and for the Purposes therein mentioned ;” and which said ship
 and cargo had been thereupon sold and disposed of for the sum
 of four thousand eight hundred ninety-seven pounds eighteen
 shillings and ten-pence current money of Halifax, in Nova Sco-
 tia aforesaid, amounting to the sum of four thousand four hun-
 dred eight pound three shillings of lawful, &c. free and clear of
 all charges ; upon which said appeal A. B. H. N. and A. T.
 afterwards, to wit, on the sixth day of August, A. D. 1776,
 personally appeared before the worshipful James Brenton, esquire,
 surrogate and deputy of the worshipful Jonathan Sewell, judge
 deputy and surrogate of the court of vice-admiralty of the pro-
 vinces of Nova Scotia, &c. and the maritime parts thereof, and
 acknowledged jointly and severally that they owed to us the sum
 of nine thousand seven hundred ninety-five pounds seventeen shil-
 lings and eight-pence current money of Halifax aforesaid, upon
 condition that the said Hugh Bromage the party appellate, his
 agent or attorney, should restore the said ship and her cargo or
 the value thereof to the said appellant or appellants, in case the
 sentence so appealed from should be reversed : And whereas, &c.
 &c. [*verbatim* as in the declaration of prohibition from the
 mark ÷ in page 298 to the same mark in page 299, except-
 ing the words in Italics, and inserting those in the margin] ;
 nevertheless the said A. B. H. N. and A. T. not being ignorant
 of the premises, but contriving and unjustly intending to im-
 pede the jurisdiction which of right belongs to our said com-
 missioners in this behalf, on the twenty-seventh day of June,
 A. D. 1787, prosecuted out of our court before our justices at
 Westminster, and caused to be directed and delivered to you
 our certain prohibition that you should not further proceed in
 the said suit against the said A. B. H. N. and A. T. to com-
 pel payment of the said sum of three thousand four hundred
 fifty-five pounds three shillings and six-pence, according to the
 monition of the said Charles earl Camden, Thomas earl of
 Effingham, and Richard lord viscount Howe against them the
 said A. B. H. N. and A. T. suggesting in our said court before
 our justices aforesaid, that the said court of vice-admiralty had
 not any authority by the law or statutes of this realm to take
 any security of the nature and in the terms hereinbefore men-
 tioned to have been entered into by the said A. B. H. N. and
 A. T. nor had the said commissioners any authority to enforce
 the same ; and also suggesting that the said commissioners had no
 power or authority whatsoever under the statutes aforesaid, or
 any other statute or law of this realm, by reference of invoices
 and accounts to registers or otherwise, to open, re-examine,
 set aside, or in any manner to alter the valuation of any ship or
 vessel, or goods and effects so fixed, settled, adjusted, and liqui-
 dated,

dated, by public sale, after sentence of condemnation duly pronounced, where no fraud or collusion is alledged and proved; and also suggesting that the said ship Nicholas and the goods and effects on board the same were condemned as lawful prizes by the said court of vice admiralty at Halifax, and sold by public auction by the vendue master to the highest bidders, without any fraud or collusion having been alledged or proved; and also suggesting that the practice of opening, re-examining, setting aside, and altering the valuation of ships, or vessels, or goods and effects so fixed, settled, adjusted, and liquidated as aforesaid, was attended with great oppression, vexation, and expence to the parties, and was contrary to the true meaning, intention, form, and effect of the said statute, and other the statutes and laws of this realm, by pretext of which said prohibition you thereupon have hitherto altogether desisted, and still do desist from proceeding further in the said suit against the said A. B. H. N. and A. T. for the purpose aforesaid as we have heard, to the great damage and delay of the said Nathaniel and John, and to the manifest impediment of the jurisdiction which of right belongs to our said commissioners in this behalf; wherefore the said Nathaniel and John have humbly besought us to provide them a fit and proper remedy in this behalf; and we being willing what is right and just on this occasion should be done, and being unwilling that the jurisdiction which of right belongs to our said commissioners should by such means any longer be impeded, and for that it appears to our said justices at W. aforesaid, that the several matters above suggested by the said A. B. H. N. and A. T. are not sufficient in law to bar them the said Nathaniel and John from prosecuting their said suit before our said commissioners against the said A. B. H. N. and A. T. for the purpose aforesaid; therefore we signify to you, that you may lawfully proceed in the said suit against the said A. B. H. N. and A. T. for the purpose aforesaid, our said prohibition to you thereof in form aforesaid before directed to the contrary thereof in anywise notwithstanding: Witness Alexander lord Loughborough, at Westminster, the twelfth day of February, in the twenty-ninth year of our reign.

MANDAMUS.

Hilary Term, 24. Geo. III.

LONDON. Our lord the king, to the mayor and aldermen Mandamus to of his city of London, his writ closed in these words, to wit: restore to the George the Third, by the grace of God, of Great Britain, &c. office of alder- king, defender of the faith, and so forth, to the lord mayor and al- man of a parti- dermen of our city of London, greeting: Whereas T. W. esquire, the city of Lon- was in the month of June 1776 duly elected, chosen, and admitted don. into the place and office of alderman of the ward of Bridge, within the said city of London, in which said place and office he the said T. W. hath always behaved and governed himself well; yet

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you the said mayor and aldermen of the said city, without any just or reasonable cause have unjustly removed the said T. W. from the aforesaid place and office of alderman of the said ward of Bridge within the said city, in contempt of us, and to the great damage and grievance of him the said T. W. and to the manifest lessening of his estate, as we have been informed from his complaint made to us in that behalf; therefore being willing that due and speedy justice should be done in this behalf to the said T. W. (as it is reasonable) do command you, by firmly enjoining you, that immediately after the receipt of this our writ you do without delay restore or cause to be restored the said T. W. into the said place and office of alderman of, &c. together with all the liberties, privileges, and franchises to the said place and office belonging or appertaining, or signify to us cause to the contrary thereof, that the same complaint may not by your default be again repeated to us, and how you shall have executed this our writ make it appear to us at Westminster, on Friday next after the octave of Saint H. then returning to us this our writ; and this you are not to omit on peril that may fail thereon: Witness William earl of Mansfield, at Westminster, the twenty-fifth day of November, in the twenty-fourth year of our reign.

By the court

TEMPLAR.

Return.

States corpora-
tion by prescrip-
tion.

On which said Friday, next after the octave of Saint H. the said mayor and aldermen returned the said writ as follows, that is to say: We, the mayor and aldermen of the city of London, do humbly certify and return to our sovereign lord the king, that the said city of London is, and from time whereof, &c. hath been an ancient city, and that the citizens and freemen of the said city from time whereof, &c. have been a body corporate and politic in deed, fact, and name, by divers names of incorporation, and for fifty years last past and upwards have been and now are a body corporate and politic, by the name of the mayor, and commonalty, and citizens of the city of London; and that within the said city from time whereof, &c. there have been divers wards and divers aldermen of such wards respectively: And for fifty years last past and upwards there have been and now are, and of right ought to be twenty-six wards within the said city, that is to say, Alderigate ward, &c. &c. &c. and that for all the time last mentioned there have been, and now are, and of right ought to be twenty-six citizens and freemen of the said city, who have been and have been called aldermen of the said city, that is to say, one alderman for each and every of the said twenty-six wards within the said city: And that for all the said time last mentioned the election of the aldermen of the said several wards of the said city hath been had and made, and of right ought to have been had and made, and still of right ought to be had and made at certain assemblies or courts called courts of wardmote, summoned and holden by and before the mayor of the said city for the time being, or his *locum tenens*, for that purpose appointed, within such wards respectively for which such election hath been had and made by the major part of the inhabitants and householders of such wards respectively, being
freemen

freemen and duly qualified to vote in that behalf, except the ward of Bridge without, to which, pursuant to the direction of a bye-law or act of common council made for that purpose within the said city on, &c. upon every vacancy of an alderman of such ward, the senior alderman for the time being, who hath borne the charge and office of mayoralty of the said city, and is discharged from it, shall and may at his free will and pleasure remove to, accept, and take the same; and in case of his refusal to remove to that ward, then the next senior alderman, and so successively every other alderman according to his seniority, who hath in like manner borne the said office of mayoralty, shall and may (if he think fit) remove to, accept, and take the same, in every of which cases a wardmote is by the said bye-law or act directed to be holden within such ward, whereof such alderman so removing and taking upon him to be an alderman of the said ward of Bridge without was an alderman, within four days next after every such change and removal, as is provided for the other wards of the said city, but if none of the said aldermen who have borne the said office of mayoralty will remove to and accept the said ward, then the lord mayor for the time being is within fourteen days to cause a common council to be summoned and holden, at which court of common council an alderman for the said ward is to be elected in manner therein directed, and by a subsequent bye-law or act of common council made within the said city on, &c. (reciting the above-mentioned act, and reciting also that there was no limited time therein prefixed for the said aldermen to make their respective elections, whether they would or would not remove to and accept the said ward; it then directs that they should make such their elections within the time and in the manner therein specified): And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that from time to time whereof, &c. there hath been and still of right ought to be within the said city a certain court of record, called the court of mayor and aldermen of the city of London, holden in the Guildhall of and within the said city, according to the custom of the said city, before the mayor of the said city for the time being, or his *locum tenens*, and the aldermen thereof, or at least twelve others of the said aldermen, at such times as hath seemed meet and necessary to the mayor of the said city for the time being, upon due notice being previously given thereof, according to the custom of the said city for the right administration of justice within the said city and the better order and regulation thereof, and for the consulting about and transacting of other lawful and necessary affairs concerning the good government of the said city, at which said last-mentioned court the mayor of the said city for the time being, or his *locum tenens*, during all the time aforesaid hath been used and accustomed, and still of right ought to preside: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that every person elected an alderman of the said city, before he hath been admitted into and taken upon himself to execute the office of alderman of the said city from time whereof, &c. hath taken, and

Bye-law, that on a vacancy senior alderman might take the office of alderman of Bridge Without.

T. W. elected
and takes the
oath.

Mayor and al-
dermen have
power to an-
swer;

and mayor (or
locum tenens) and
aldermen have
been used to
make bye laws.

hath used and been accustomed to take, and of right ought to take his corporal oath at a court of mayor and aldermen of the said city holden as aforesaid in manner and form following, that is to say, "Ye shall swear," &c. &c. &c.: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that the said T. W. esquire, within named, at a court of wardmote holden in and for the said ward of Bridge within in the said city of London, on, &c. was elected an alderman of and for the said ward of Bridge within in the said city, and afterwards, to wit, at a court of mayor and aldermen of the said city holden in the Guildhall of and within the said city, according to the custom of the said city on, &c. took the oath herein above specified and set forth: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that from time whereof, &c. the said court of mayor and aldermen of the said city hath of right amoved, and hath been used and accustomed, and of right ought to amove any one of the aldermen of the said city from the place and office of one of the aldermen of the said city for any just and reasonable cause, and that the person so amoved therefrom hath accordingly been and continued absolutely and effectually discharged and amoved from the said place and office: And we the said mayor and aldermen aforesaid do further humbly certify and return to our sovereign lord the king, that from time whereof, &c. there hath been, and still of right ought to be within the said city a certain court or assembly, called the court of common council, holden before the mayor or his *locum tenens*, and the aldermen of the said city for the time being, and the commons of the said city or the major part of them, duly elected and chosen, according to the custom of the said city in that behalf, being assembled together, upon reasonable summons thereof previously given, according to the custom of the said city, which said commons of the said city so elected as aforesaid, together with the mayor or his *locum tenens*, and aldermen aforesaid, during all the time aforesaid have been the common council of the said city to consult of and upon all matters and things proposed in common council concerning the said city, and to give and declare their assent and dissent as well for themselves, as for the rest of the commonalty and citizens of the said city; and that the said mayor or his *locum tenens*, aldermen, and commons, or the major part of them so assembled in common council aforesaid, during all the time aforesaid have been used and accustomed, and have had, and still have a right to make, constitute, and appoint such reasonable ordinances, acts, and bye-laws as to them have seemed meet and convenient for the better government, order, and regulation of the said city: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that from time whereof, &c. there have been, and still ought to be within the said city two sheriffs annually elected and chosen to serve the office of sheriff of the said city for the year ensuing, from and out of such of the citizens of the said city as during all that time have been liable

to serve the said office: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that from time whereof, &c. the mayor of the said city hath been and still of right ought to be annually nominated, elected, and chosen from and out of such of the aldermen of the said city for the time being, as have before served the office of sheriff of the said city; and that the office of mayor of the said city is an office of very great dignity, pre-eminence, trust, and authority, touching and concerning the right administration of justice within the said city, and the good order and regulation thereof: And we do further humbly certify and return, that by a certain law or act of common council made at a court of common council duly holden within the said city, according to the custom of the said city, on Wednesday, the ninth day of August, in the ninth year of the reign of the lady Ann, late queen of England, and in the year of Our Lord 1710, before the mayor and aldermen of the said city, and the major part of the commons thereof, then and there in common council assembled, after reciting that there was then no law in that city empowering any person that was or should be chosen into the said office of one of the aldermen of the said city to excuse himself from taking upon him the said office by reason of defect or insufficiency of estate to maintain and support the dignity of the said office, or for ascertaining the penalty to be inflicted upon any person chosen into the said office, who being duly qualified should obstinately refuse and neglect to take the same upon him, it was amongst other things enacted, ordained, and established by the lord mayor, aldermen, and commons in that common council assembled, and by authority of the same, that if any person free of that city, who then was or thereafter should be chosen an alderman of any of the wards within that city, or the liberties thereof, according to the custom of the said city, should voluntarily take his corporal oath before the lord mayor and greater part of the aldermen, in open court of the said lord mayor and aldermen for the time being, that at the time of his the said election he was not of the value of fifteen thousand pounds in lands, goods, &c. and should likewise bring with him six other citizens freemen of the same city of good credit and reputation, who should likewise voluntarily testify upon their corporal oaths that in their conscience they did believe that the person so chosen or to be chosen and elected alderman had deposed and sworn truly concerning his estate as was aforesaid, then in every such case should be and was thereby discharged and exempted of and from the said election: And we do further humbly certify and return, that at a court of common council duly holden within the said city, according to the custom of the said city, on Thursday, the seventh day of April, in the twenty-first year of the reign of his late majesty king George the Second, before the mayor and aldermen of the said city, and the major part of the commons thereof, then and there in common council assembled, a certain other bye-law or act

Bye-law in the time of queen Anne, that persons elected, swearing that they were not worth £15,000. might be excused.

Bye law in the time of Geo. II. sheriffs not worth £15,000. discharged.

of common council was made and passed, by which amongst other things it was enacted and ordained, that no freeman of the said city, who should thereafter be elected or nominated in manner therein mentioned to and for the said office of sheriffalty should be discharged from such election or nomination for insufficiency of wealth, unless he should and did voluntarily take his corporal oath before the said court of lord mayor and aldermen that he then was not of the value of fifteen thousand pounds in lands, goods, &c. and also unless certain other citizens, freemen of the said city to be brought by him, and to be men of good credit and reputation, such as the said court should approve of, should and did likewise before the same court voluntarily testify upon their corporal oaths that in their consciences they believed the person so elected and nominated in manner therein mentioned had deposed and sworn truly concerning his value as aforesaid; in which case, and so often as the same should happen, the said court of lord mayor and aldermen should and might at all times thereafter discharge any person whatsoever, as well of and from any nomination as of and from any election which should have been made of him in manner therein mentioned, any thing therein contained to the contrary thereof in anywise notwithstanding: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that the mayor and commonalty and citizens of the said city are, and from time immemorially have been seised in their demesne as of fee in their corporal right and capacity of divers messuages, lands, rents, and hereditaments, and lawfully entitled for themselves and their successors to many large and valuable tolls, duties, and customary payments, and also now are, and for ten years and upwards now last past have been lawfully possessed in their corporate right as aforesaid of divers others lands and tenements for certain long term of years yet to come and unexpired; and that the several estates, hereditaments, duties, rents, revenues, and possessions of and belonging to the mayor and commonalty and citizens of the said city in their corporal rights and capacity as aforesaid now are, and at the time of the removal of the said T. W. hereinafter mentioned were, and for a great number of years now last past have been of great yearly value, to wit, of the yearly value together of fifty thousand pounds and upwards; and that the office of one of the aldermen of the said city now is, and during all the time aforesaid hath been an office of great trust and power with respect to the management, receipt, controul, and application of the issues, rents, and profits of the estates, hereditaments, duties, revenues, tenements, and possessions of and belonging to the mayor and commonalty and citizens of the said city, and in the appointing proper officers to collect the same, and also is an office of great trust, pre-eminence, authority, importance, and dignity touching and concerning the right administration of justice within the said city, and the good order, regulation, and government thereof: And we do further humbly certify and return, that the lord George the Second, late king of England, in his letters patent under the great seal of England,

land, bearing date at Westminster, the twenty-fifth day of August, in the fifteenth year of his reign, reciting, that the said lord the then king's royal predecessor Charles the First, then late king of England, by his letters patent under the great seal of England, bearing date at Westminster, the eighteenth day of October, in the fourteenth year of his reign, did give and grant to the mayor and commonalty and citizens of the city of London, and their successors (amongst other things) that the then mayor and recorder of the said city, and the mayor and recorder of the said city for the time being, and as well those aldermen who before that time had sustained and borne, as those aldermen who thereafter should have sustained and borne the charge and office of mayoralty of the said city, although they should cease from the mayoralty, or should be dismissed therefrom so long as they should remain aldermen then, and the three senior aldermen of the said city for the time being, who should remain longest in the office of aldermanship, and had not before sustained and borne the charge and office of mayoralty of that city for ever, should be all and every of them a justice and justices to preserve and keep the peace of the said king, and his heirs, and successors within the said city of London, and liberties of the same, and appointed the said lord mayor and the recorder for the time being to be of the quorum; and also reciting, that the lord, the then king's royal predecessors king William and queen Mary, by certain other letters patent under their great seal, bearing date at Westminster, the twenty-eighth day of July, in the fourth year of their reign, therein reciting the said former letters patent of king Charles the First, and reciting therein also that the said mayor and aldermen by their humble petition had represented to their said majesties that the number of the justices of the peace constituted within the said city by the said letters patent of Charles the First were so few, that by reason thereof it frequently happened that justice could not be administered within the said city with so much expedition, so commodiously, and in such manner as might be most expedient for their said late majesties service and the utility of their subjects, their said late majesties therefore by their said recited letters patents did grant to the said mayor and commonalty, and citizens of the city of L. and their successors, that six other aldermen of the said city for the time being, who then were, or for the future should be next in the office of aldermanship to the three senior aldermen mentioned and constituted justices of the peace in the said first mentioned charter, and who then had, and thereafter should have borne the office of sheriff of the said city, besides and beyond the three senior aldermen as aforesaid, should for ever thereafter be justices of the peace in the said city and liberties thereof; and these six aldermen, with the mayor and recorder for the time being, as well as those aldermen who had borne the office of mayoralty, and the aforesaid three senior aldermen, or any four of them, whereof the said mayor and recorder for the time being to be one, were by the said last recited letters patent constituted justices of the peace for the said city and liberties, with the same powers

Letters patent
of Geo. II. and
of Cha. I. set
out;

and of W. and
M. constituting
aldermen justi-
ces of the peace.

as were granted to the justices of the peace of any county of this kingdom, as by the said several recited letters patent (amongst divers other matters and things therein contained, relation thereunto respectively had) might more fully and at large appear; and also reciting, that the lord mayor and aldermen of the said city of London had by their petition humbly represented unto the lord the then king, that since the granting the said last-mentioned letters patent the duties of the justices of the peace within the said city and liberties were by many acts of parliament very much increased, so that the petitioners who were constituted justices by the said charter had for the more speedy and effectual execution of justice agreed amongst themselves to sit daily by turns in the Guildhall of the said city for the public administration of justice; and that the petitioners humbly conceived that it would be for the public utility of all the said lord the king's subjects within the said city and liberties, and that justice might be still more commodiously and expeditiously administered if the present number of the justices of the peace within the said city of London and liberties thereof was increased: And the petitioners further represented, that the lord mayor and recorder, being the only justices of the quorum, if by sickness or other unavoidable accident it should happen that neither might be able to attend the sessions great inconveniences might arise, the petitioners had humbly besought the said lord the king to grant to the said lord's good subjects, the mayor and commonalty and citizens of the said city, that for the future the mayor, recorder, and all the aldermen of the said city for the time being, might be justices of the peace of the said city and liberties thereof, and that all those aldermen for the time being who should have borne and sustained the office of mayoralty of the said city might be of the quorum, as well as the mayor and recorder; the said lord the king being willing to gratify the petitioners in their request did of his special grace, certain knowledge, and mere motion, for him, his heirs, and successors, give and grant to the said mayor and commonalty and citizens of the said city, that the mayor, recorder, and all the aldermen of the said city of L. for the time being, and each and every of them should be for ever thereafter a justice and justices of the peace of him, his heirs, and successors, as within the said city of L. and liberties thereof; and he did by the said letters patent for him, his heirs, and successors, constitute, make, and ordain the mayor, recorder, and all the aldermen for the city of London for the time being, and every of them, or any four of them, of whom the mayor and recorder, or any one of the aldermen who had sustained the office of mayoralty for the time being, he willed should be always one justice of him, his heirs, and successors, within the said city of London and liberties thereof, to keep and cause to be kept all and singular the statutes and ordinances in all their articles made and to be made for the preservation of the peace of him, his heirs, and successors, and for the peaceably ruling and governing the people of him, his heirs, and successors, as well within the said city as the liberties thereof, according to the form

I

and

and effect of the same, and to correct and punish in the manner prescribed by those statutes and ordinances all such persons who should be found offending within the said city and liberties thereof, against the form and effect of the same statutes and ordinances, or any or either of them, and to demand sufficient security for the peace and good behaviour towards him, his heirs, and successors, and all the subjects of him, his heirs, and successors, and all such persons who should send threatenings to any subject or subjects of him, his heirs, and successors, concerning their bodies, or the burning their houses; and if they should refuse to find such security, then to cause them to be safely kept in his gaol of Newgate, or in any other prison of him, his heirs, and successors, in his said city of L. until they should have found such, and to do and perform all and singular other matters and things which any justices or keepers of the peace of him, his heirs, and successors, within any county of that part of his kingdom of Great Britain called England, might, could, and ought to do and perform, by virtue of any statutes and ordinances of that part of his kingdom of Great Britain called England, or by virtue of any commission of him, his heirs, and successors, to preserve the peace in any such county, as by the said letters patent now remaining on record may more fully appear; which said letters patent the said mayor and commonalty of the said city of L. accepted and agreed to in the several matters therein above specified: And we further certify and return, that within the said city, from and after the granting of the said letters patent, until the third day of December, in the year of Our Lord 1782, for the more speedy and effectual execution of justice, a certain rota, called a rota of justices, hath been settled and established in each year respectively by and with the consent of the aldermen of the said city for the time being, fixing and appointing the respective days of attendance of the respective aldermen of the said city for the time being, except the lord mayor for the time being, and such of the aldermen who were and was sheriffs or sheriff of the said city for the time being, at the Guildhall in the said city, in their turns, so that one of the said aldermen might attend on every day of the year (Saturdays and Sundays only excepted) at the Guildhall aforeaid, as a justice of the peace, and for the said city, for the public administration of justice within the said city, and for the doing such things as concerned or appertained to his office of a justice of the peace of and for the said city; and that the aldermen of the said city for the time being (except as aforeaid) during all the time last aforeaid have been used and accustomed to attend, and ought to have attended at Guildhall aforeaid as such justices of the peace as aforeaid, according to the said rota settled and established as aforeaid: And we further humbly certify and return, that by a certain rota of justices settled and established as aforeaid within the said city, fixing and establishing the days of attendance as aforeaid, from Monday the first day of October 1782, to, &c. &c. 1782, the following days were fixed and appointed for the attendance of the said T. W. as such justice

Rota established to sit at Guildhall as justices, except mayor and sheriffs for the time being.

Various instances of corruption and malpractices imputed to T. W. as a magistrate;

justice of peace as aforesaid, at the Guildhall aforesaid, for the purpose in that behalf above mentioned, that is to say, Friday the nineteenth day of October, &c. &c. &c. &c. : And we further humbly certify and return, that by a certain other rota of justices settled and established as aforesaid within the said city, fixing and establishing the days of attendance as aforesaid, from Friday the eleventh day of October 1782, to Thursday, the sixteenth day of October 1783, the following amongst other days were fixed and appointed for the attendance of the said T. W. as such justice of the peace as aforesaid, at the Guildhall aforesaid, for the purpose in that behalf above mentioned, that is to say, Tuesday the twenty-second day of October, and Wednesday the twenty-second day of November 1782 : And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that under and by virtue of the last will and testament of sir J. Langham, baronet, deceased, bearing date the thirty-first day of August 1764, and also by virtue of a decree of the high court of chancery made on the thirteenth day of June, in the ninth year of the reign of his present majesty king George the Third, the mayor and aldermen of the said city for a long time now last past have had and still have the disposal of the interest of the sum of six thousand pounds as a fund for the relief for poor distressed soldiers and sailors and their families, which said principal sum of six thousand pounds was and is vested in certain trustees, and the interest thereof paid over by the said trustees to the chamberlain of the city of London for the time being, and by him accounted for and paid over to the order of the mayor and aldermen aforesaid for the purpose in that behalf above mentioned : And we further humbly certify and return, that at a court of mayor and aldermen duly holden in the Guildhall of and within the said city, according to the said custom of the said city on Tuesday, the seventh day of December 1773, and in the fourteenth year of the reign of his present majesty king George the Third, it was ordered by that court, that Mr. Chamberlain should out of the fund arising from sir J. L's. legacy pay four pounds to one poor distressed soldier, and four pounds to another poor distressed soldier, who should be recommended to him by the right honourable lord mayor and each of the aldermen of the said city : And we further humbly certify and return to our said sovereign lord the king, that the interest of the said sum of six thousand pounds is the said fund arising from sir J. L's. legacy, and in the said order mentioned : And we further humbly certify and return to our said sovereign lord the king, that the said T. W. being such aldermen as aforesaid, and acting as such after the making of the said last-mentioned order, to wit, on the fourth day of October 1781, at the city of London, signed and subscribed a certain paper, directed to J. W. esquire, chamberlain of London, he the said J. W. then being chamberlain of the said city, thereby requiring and ordering the said J. W. to pay to J. A. a poor distressed seaman, four pounds out of the said fund arising from a legacy

legacy left by sir J. L. to the lord mayor and court of aldermen of the city of London in trust, towards raising a fund for the relief of poor distressed soldiers and seamen and their families, meaning thereby the fund above mentioned, and then and there procured the said J. A. otherwise called J. A. to subscribe his mark to a receipt upon the same paper (the said J. A. otherwise called J. A. being unlettered and not able to write) purporting, that he the said J. A. had on the day and year last above-mentioned received the sum of four pounds for the above, and the said T. W. then and there attested the mark of the said J. A. otherwise called J. A. by writing upon the same paper near to the said mark the following words, to wit, J. A. his mark, and that the said T. W. did then and there himself as such alderman, actually receive the said sum of four pounds from the said J. W. as such chamberlain as aforesaid, to and for the use of him the said J. A. otherwise called J. A. : And we do further humbly certify and return to our said sovereign lord the king, that the said T. W. being such alderman as aforesaid, and acting as such did by the means above mentioned fraudulently, deceitfully, and corruptly obtain to be paid to himself the said sum of four pounds, under pretence of its being paid to and for the use of the said J. A. otherwise called J. A. and afterwards paid or caused to be paid to the said J. A. otherwise called J. A. the sum of one pound one shilling, parcel of the said sum of four pounds six shillings, and no more, but deceitfully, fraudulently, and corruptly retained and converted the residue of the said sum of four pounds to his own use : And we do further humbly certify and return, that in the month of December 1781, within the city of London aforesaid, one J. L. then a servant of one G. K. was by the said G. K. carried before the said T. W. as such alderman and justice of the peace of and for the said city as aforesaid, and charged with having robbed him the said G. K. of a certain sum of money; and that the said T. W. having heard the said charge against the said J. L. did with the consent and at the request of the said G. K. agree and undertake that the said J. L. should be discharged and freed from the said charge, and all legal punishment upon account thereof, upon condition that he would enter into the service of our lord the king, either as a soldier or a sailor; and that the said J. L. having agreed to this said condition was by one J. W. who was authorised by ——— Humberston, esquire, colonel of the hundredth regiment of foot, and Joseph Vaux, esquire, the agent for raising the said regiment to procure men for the same, duly enlisted, attested, and sworn before, and in the presence of the said T. W. being such alderman and justice of the peace as aforesaid, to serve our said lord the king as a soldier in the said regiment; and that the said T. W. as such alderman and justice of the peace as aforesaid, did then and there commit the said J. L. to safe custody until the said T. W. should be able to remove him to the said regiment : And we do further humbly certify and return, that the said T. W. did afterwards, and in the month of December, deceitfully, wrongfully, corruptly, and wickedly obtain from one

W. P.

W. P. who had requested the said W. P. to procure the free discharge of the said J. L. a promissory note for the payment of eighteen pounds by the said W. P. to the said T. W. under a false pretence that he the said T. W. would procure the discharge of the said J. L. by providing two substitutes to serve his said majesty in lieu of the said J. L. without which the said T. W. then and there alledged to the said W. P. that the said J. L. could not be discharged, and that the expence of providing two substitutes would amount to the said sum of eighteen pounds, or thereabouts: And we do further humbly certify and return, that the said T. W. did not in fact provide any substitute or substitutes whatsoever, nor was nor were any substitute or substitutes whatsoever provided to serve his said majesty in lieu of the said J. L. nor did he pay or cause to be paid any sum of money for the discharge of the said J. L. but on the contrary thereof, he the said T. W. as such alderman and justice of the peace as aforesaid, did afterwards discharge the said J. L. out of custody, and suffered him to go at large before the said J. W. did or could remove him to the said regiment, and that the said J. L. was so discharged, and did go at large accordingly: And we do further humbly certify and return that the said T. W. being such alderman as aforesaid, did afterwards obtain and take from the said W. P. a promissory note for fifteen pounds in lieu of the said promissory note so given by him as aforesaid for eighteen pounds falsely pretending that he had procured the discharge of the said J. L. for the sum of eighteen pounds; and that the said T. W. being such alderman as aforesaid, did afterwards corruptly, fraudulently, deceitfully, and extorsively take and receive from Elizabeth the wife of the said W. P. the sum of nine pounds nine shillings in satisfaction of the said note of fifteen pounds, and upon a promise made by the said T. W. to the said Elizabeth in consideration thereof to deliver up the said last-mentioned note, which said sum of nine pounds nine shillings the said T. W. corruptly received and converted to his own use, contrary to his duty as an alderman of the said city, and justice of the peace as aforesaid; and that the said T. W. did not according to his said promise deliver up the said last-mentioned note, but on the contrary thereof, that payment of the said last-mentioned note was often afterwards demanded of the said W. P.:

and that he was
a prisoner for
debt in execu-
tion.

And we do further humbly certify and return to our said sovereign lord the king, that the said T. W. whilst he was such alderman as aforesaid, that is to say, on the eleventh day of December, 1781, was and continually from thence until and at and after his time of his amotion hereinafter mentioned, and continued a prisoner, confined in gaol in execution for debt, and thereby during that time was wholly prevented from performing and executing the duties of his office of an alderman and justice of the peace of the said city, and did not during that time or any part thereof perform and execute the duties of his said office of an alderman and justice of the peace of the said city; and that at the time of the said amotion of the said T. W. from the said office of alderman, he the said T. W. was detained in prison for debt, under and by virtue of
such

such executions at the suits of divers persons, and also under and by virtue of two escape warrants, and was so unable to pay his debts, and so destitute of friends and assistance for that purpose, that there then appeared no probability of the said T. W. being discharged out of prison: And we do further humbly certify and return, that after the eleventh day of December 1781, and before the amotion of the said T. W. divers courts of aldermen were holden in the Guildhall of and within the said city, according to the said custom of the said city, to wit, one on each of the following days, that is to say, the twenty-ninth day, &c. &c. &c.: And we do further humbly certify and return, that after the said eleventh day of December 1781, and before the amotion of the said T. W. divers courts of common council were duly holden within the said city, according to the custom of the said city, to wit, one on each of the following days, that is to say, on the fifth day, &c. &c. &c.: And we do further humbly certify and return, that from time whereof, &c. there hath been and still of right ought to be within the said ward of Bridge Within, a certain assembly or court called the court of wardmote, held and to be held within the said ward in every year on the Feast of Saint Thomas, unless the said Feast happened to be or fall on a Sunday, and in that case upon the day next following, the said Feast before the aldermen of the ward for the time being, for the election of common council men and other ward officers of the said ward for the ensuing year, and for the dispatch of divers other matters and business relative to the said ward: And we do further humbly certify and return, that after the said eleventh day of December 1781, and before the amotion of the said J. W. from his office of an alderman of the said ward of Bridge Within, to wit, on the Feast of Saint Thomas, being the twenty-first day of December 1781, and on the Feast of Saint Thomas, being the twenty-first day of December 1782, the said T. W. as such alderman of the said ward, did not hold or attend any assembly or court of wardmote for the purpose in that behalf above mentioned, contrary to the duty of the said T. W. as such alderman of the ward, but by reason of his said imprisonment as aforesaid neither did nor could hold or attend the same, nor did nor could the said T. W. during his said imprisonment, or any part thereof, attend to the occasional or incidental business of the said ward, or entreat the people of the same ward of such things as to them pertained to do, according to the oath above specified, and his duty as such alderman in that respect: And we do further humbly certify and return, that the said T. W. by reason of his said imprisonment did not nor could attend at any or either of the said courts of aldermen, courts of common council, or courts of wardmote, so holden as aforesaid, whereby the said ward of Bridge Within, in the said city, which ward the said T. W. was such alderman as aforesaid, was wholly deprived of the assistance and council of the said T. W. at each of those several courts: And we do further humbly certify and return, that the said T. W. did

Several wardmotes held, at neither of which T.W. attended, by reason of his imprisonment.

Petition for a
motion.

Service of copy
of petition and
order on T. W.

did not after the said eleventh day of December 1781, attend, nor by reason of his said imprisonment could attend as an alderman and a justice of peace at Guildhall aforesaid, on any or either of the days so fixed and appointed for his attendance there as such alderman and justice of the peace as aforesaid, whereby the city was deprived of the benefit, advantage, and convenience which it ought to have received of the said T. W. as such alderman and justice of the peace as aforesaid on those several days, and the public administration of justice within the said city was thereby interrupted and delayed: And we do further humbly certify and return, that the said T. W. was not discharged from his said imprisonment until the twenty-first day of June 1783, and that the said office of an alderman of the said city by reason of the said conduct, circumstances, and situation of the said T. W. became and was greatly disgraced and brought into great scandal and contempt: And we do further humbly certify and return to our said sovereign lord the king, that at a court of mayor and aldermen duly holden in the Guildhall of and within the said city, according to the said custom of the said city, on, &c. a certain petition signed and subscribed by the deputy of the said ward of Bridge Within, and divers of the common council, and the greater part of the inhabitants and freeholders of the said last-mentioned ward who were then freemen of the said city, and qualified to vote at the wardmote elections in and for the said ward, was presented to the said court of mayor and aldermen, setting forth and shewing that the said petitioners had for a considerable time suffered great inconvenience occasioned by the said T. W. esquire, alderman of the said ward, being confined in prison, that they were not represented in that honourable court, nor in the court of common council, that that confinement rendered him incapable of discharging the active duties of his important appointment, and deprived them of that assistance which they had a just claim, and they thereby begged leave to observe, that there appeared no probability of his enlargement, the said petitioners therefore prayed that honourable court to afford them such relief as they in their wisdom should judge meet; and thereupon at the said court so holden as last aforesaid, it was ordered by the said last-mentioned court, that a copy of the petition should be delivered to the said T. W. and that he should have notice given him to attend in his place at a court of mayor and aldermen to be holden on, &c.: And we do further humbly certify and return, that on, &c. the said T. W. had a copy of the said petition, and also the said order of the said last-mentioned court, duly served on him the said T. W. and thereby had notice to attend as aforesaid: And we do further humbly certify and return, that on, &c. being the day on which the said T. W. had notice to attend as aforesaid, no court of mayor and aldermen was holden nor any further proceedings had upon the premises against the said T. W. until, &c.: And we do further humbly certify and return, that at a court of mayor and aldermen duly holden in the Guildhall of

and

and within the said city, according to the said custom of the said city, on, &c. a certain other petition signed and subscribed by the then deputy of the said ward of Bridge Within, and the major part of the then common council men of the said last-mentioned ward, being freemen of the said city of London, and qualified to vote at the wardmote elections, was presented to the said last-mentioned court of aldermen, shewing amongst other things that the said petitioners, together with other inhabitants of the said ward whose names were thereunto subscribed, on, &c. presented a former petition to that honourable court, setting forth that they had then for a considerable time suffered great inconvenience by T. W. esquire, alderman of the said ward, being confined in prison, by reason whereof they were not represented in that honourable court nor in the court of common council, that that confinement rendered him incapable of discharging the active duties of his important appointment, and deprived them of that assistance of which they had a just claim, and that as there appeared no probability of his enlargement the said petitioners therefore prayed that honourable court to afford them such relief as they in their wisdom might judge meet; that in addition to the several allegations in the said petition the petitioners begged leave further to represent to that honourable court, that they were informed the said T. W. having in the month of December 1781, signed an order to Mr. Chamberlain to pay J. A. four pounds out of the fund for the relief of distressed soldiers and seamen, he himself, although the poor object also attended with him for the purpose, received the four pounds, and afterwards gave or caused to be given to him one pound one shilling only and no more, as part thereof, and upon a then late application made to him for the remainder, he alleged, that he had disposed of the same to other persons; that the said petitioners were likewise further informed, that the said T. W. some time in or about the month of November 1780, obtained from W. P. (thereby meaning the said W. P. above mentioned) his note of hand for fifteen pounds, under pretence of its being for the purpose of providing two substitutes to serve his majesty in the room of J. L. (meaning the said J. L. above mentioned) who had lately been brought before him as one of the magistrates of that city, for robbing G. K. his then master, and who by consent of all parties had been discharged therefrom; that he afterwards extorted, or unlawfully obtained from the wife of the said W. P. (meaning the wife of the said W. P. above-mentioned) nine guineas on account of such note, and threatened to sue the said W. P. meaning thereby the said W. P. above-mentioned) for the remainder thereof; that the said petitioners were further informed, that the said T. W. was then a prisoner in execution for several different debts in the New Prison, Clerkenwell, and that two of such executions were upon escape warrants, in consequence of which he was, as the said petitioners were also informed, thereby rendered incapable of taking the benefit of any act thereafter to be made and passed for the relief of

Stating grounds
of a petition as
before.

He attends by
counsel.

of insolvent debtors; that the said petitioners trusted they should be able to prove and establish these several facts by sufficient evidence, and as they appeared to the said petitioners to render the said T. W. altogether incompetent and unfit to hold the high office, and discharge the important duties of an alderman of that city, and of the ward of Bridge Within, the said petitioners therefore humbly prayed that a day might be appointed for the hearing of their evidence in support of the allegations of their said petition, and that that honourable court would afford them such relief as they in their wisdom might judge meet; and thereupon at the said court so holden as last aforesaid it was ordered by the said last-mentioned court, that the said T. W. should attend at a court of mayor and aldermen to be holden on, &c. by himself, his counsel, or attorney, to answer the allegations of the said last-mentioned petition, and to shew cause, if he had any, why he should not be amoved and displaced from the office of an alderman of that city for the ward of Bridge Within, and that a copy of the said last-mentioned petition, and of that last-mentioned order, should be forthwith served upon the said T. W.: And we further humbly certify and return, that afterwards and before the said twenty-first, &c. that is to say, on the eighteenth, &c. a copy of the said last-mentioned petition, and also of the said order of the said last-mentioned court, was duly served on him the said T. W.: And we further certify and return, that all the aldermen of the said city, except the said T. W. were afterwards and before the said twenty-first, &c. on which day the said T. W. was ordered to attend the said court of mayor and aldermen as last aforesaid, according to the custom of the said city, duly summoned to be and appear at the said court of mayor and aldermen so to be holden on the twenty-first, &c. for the purpose aforesaid: And we further humbly certify and return, that a court of mayor and aldermen was duly holden in the Guildhall of and within the said city, according to the said custom of the said city, on the twenty-first, &c.; and that the said T. W. did not personally attend at the said last-mentioned court, but by his counsel learned in the law, and heard by that court in his behalf, prayed that further time might be granted to answer the allegations of the said last-mentioned petition, and to shew cause why he should not be amoved and displaced from the place and office of an alderman of the said city for the ward of Bridge Within; and thereupon it was ordered at and by the said last-mentioned court in compliance of the said prayer of the said T. W. that the further hearing of the said matter should be adjourned to the eighteenth, &c. whereof the said T. W. then and there and afterwards, to wit, on, &c. had due notice, and it was further ordered by the same court that notice thereof should be inserted in the summons for the said court, to be holden on, &c.; but divers witnesses, by consent of the counsel learned in the law, for the said T. W. were examined upon their respective corporal oaths, in that behalf duly administered to them by and at the said court (the said courts then and there having competent authority

authority to administer the same) so holden on the twenty-first, &c. in support of the allegations contained in the said last-mentioned petition, and were cross-examined by the counsel learned in the law for the said T. W.: And we do further humbly certify and return, that all the aldermen of the said city ~~except the said T. W. were afterwards and before the said~~ eighteenth, &c. duly summoned according to the custom of the said city to be and appear at the court of mayor and aldermen, to be held on the said eighteenth, &c.; and that notice of the order of the said last-mentioned court was inserted in each and every summons to each of the said aldermen that the said matter would be further proceeded upon at such court: And we do further certify and return, that a court of mayor and aldermen was duly holden in the Guildhall of and within the said city, according to the custom of the said city on the eighteenth, &c. pursuant to the said last-mentioned order; and that the said T. W. did not personally appear at the said last-mentioned court, but by his counsel learned in the law, who was heard by that court in this behalf, and prayed that further time might be granted to him to answer the allegations of the said last-mentioned petition, and to shew cause why he should not be amoved and displaced from the place and office of an alderman of the said city for the ward of Bridge Within; but no sufficient cause or reason being offered or appearing to the said court why the said court should not then proceed, it was then and there resolved by the said last-mentioned court to proceed immediately to the hearing of the said matter, and the same court did accordingly proceed to hear, and did hear further evidence upon oath in support and proof of the allegations in the said last-mentioned petition against the said T. W. and was ready to have heard any evidence which might have been offered on the part and behalf of the said T. W. by himself, or his counsel learned in the law, or by his attorney, or by any other person or person on his behalf, why he should not be amoved and displaced from the office of an alderman of the said city for the ward of Bridge Within, but no evidence or other matter being offered on behalf or in defence of the said T. W. or to shew any cause why he should not be amoved and displaced from the office of an alderman of that city for the ward of Bridge Within, it was therefore ordered at and by the said last-mentioned court, that the said last-mentioned petitioners, and also the said T. W. should attend at a court of mayor and aldermen to be holden on the twenty-fifth, &c. by themselves, their counsel, or solicitor; and that the said T. W. should then answer the allegations of the said last-mentioned petition, and shew cause why he should not be amoved and displaced from the office of an alderman of the said city for the ward of Bridge Within: And we do further humbly certify and return, that afterwards and before the said twenty-fifth, &c. a copy of the said order of the said last-mentioned court was duly served upon the said T. W.; and that all the aldermen of the said city except the said T. W. were afterwards and before

Finally ordered to attend and shew cause why he should not be amoved.

MANDAMUS, RETURN TO.

Judgment of a
motion.

the said twenty-fifth, &c. according to the custom of the said city, duly summoned to be and appear at the court of mayor and alderman, to be holden on the said twenty-fifth, &c. for the purpose aforesaid: And we do further humbly certify and return, that a court of mayor and aldermen was duly holden in the Guildhall of and within the said city, according to the said custom of the said city, on the said twenty-fifth, &c.; and that the said last mentioned petitioners appeared at the said last mentioned court, and that the said T. W. was solemnly called at the said last mentioned court to appear by himself, his counsel, or attorney, to answer and shew cause as aforesaid; and that the said T. W. did appear at the said last mentioned court by B. W. his attorney, who produced or offered to produce no evidence or other matters whatsoever on behalf or in defence of the said T. W. or to shew cause as aforesaid, except a certain affidavit made by the said T. W. and also a certain letter of the said T. W. by him written, and addressed to the right honourable the lord mayor and the worshipful court of aldermen, and then read to the said last mentioned court; and that the said last mentioned court did then and there duly hear all which was alledged or offered on behalf of the said T. W. in answer to the allegations of the said last mentioned petition, and why he should not be amoved and displaced from the place and office of an alderman of the said city for the ward of Bridge Within: And we do further humbly certify and return, that all and singular the premises having been duly and deliberately weighed and considered at and by the said last mentioned court, it was resolved unanimously by the same court, First, that the petitioners had sufficiently made good their allegations against the said T. W. respecting sir J. L's. legacy, and the extortion of nine pounds nine shillings for the discharge of J. A.; Secondly, that the petitioners had also sufficiently made good the allegations of the petition respecting the confinement of the said T. W. and his consequent inability to discharge the active duties of that important trust; Thirdly, that the court for the causes aforesaid did thereby order, adjudge, and direct, that the said T. W. should be amoved, dismissed, and discharged from the place of an alderman of the said city for the ward of Bridge Within, and he the said T. W. was by the said court amoved, dismissed, and discharged from the said office accordingly; and the said court did then and there desire the right honourable lord mayor to hold a wardmote for the said ward of Bridge Within, according to the usage and custom of the said city, for the election of a fit and able person to be alderman thereof, in the room of the said T. W. so by that court amoved, dismissed, and discharged as aforesaid: And we do further humbly certify and return, that the said T. W. since he was so as aforesaid amoved, dismissed, and discharged from the place and office of an alderman of the said city for the ward of Bridge Within, has not been elected, admitted, or sworn into or restored to the place or office of an alderman of the said city, and of the said ward of Bridge Within:

Within: And we the mayor and aldermen aforesaid do further humbly certify and return to our said sovereign lord the king, that afterwards, that is to say on, &c. a court of wardmote was holden in and for the said ward of Bridge Within in the said city, in pursuance of the said requisition, and according to the usage and custom of the said city, for the election of a fit and able person to be alderman thereof in the room of the said T. W. so by the said last mentioned court of mayor and aldermen amoved, dismissed, and discharged as aforesaid, at which said wardmote so holden as aforesaid J. S. citizen and draper, was duly elected alderman of and for the said ward of Bridge Within, in the said city, in the room of the said T. W. so amoved, dismissed, and discharged as aforesaid; and that afterwards, to wit, at a court of mayor and aldermen of the said city duly holden in the Guildhall of and within the said city, according to the custom of the said city, on, &c. the said J. S. so elected took the oath hereinabove specified and set forth, and also took and subscribed the oaths, and made and subscribed the declaration, according to the several laws made for those purposes; whereupon the said J. S. became, and was, and still is an alderman of the said city for the ward of Bridge Within, in the room of the said T. W. so amoved, dismissed, and discharged as aforesaid; and for these reasons and causes we the said mayor and aldermen in the said writ hereunto annexed mentioned ought not nor can we restore the said T. W. to the said office of alderman of the said ward of Bridge Within.

Trinity Term, 15. Geo. III.

GEORGE the Third, by the grace of God, of Great Britain, France, and Ireland, king, Defender of the Faith, &c. to the steward of the water court of the manor and hundred of Faversham, in the county of Kent, and the foreman and jury of the fraternity, company, or society of freemen or free fishermen and dredgermen of the said manor and hundred, impannelled and sworn at the said court, and also to the freemen of the said fraternity, company, or society, and to every of them, greeting: Whereas there is and from time whereof the memory of man is not to the contrary there hath been a certain ancient and laudable custom used and approved of within the said manor and hundred, that every person having served an apprenticeship for the space of seven years to any freeman or free fisherman and dredgerman of the said fraternity, company, or society, and being married, hath used and been accustomed and of right ought to be admitted and sworn into the place, office, and franchise of a freeman or free fisherman and dredgerman of the said fraternity, company, or society, and every such person ought by you to be admitted and sworn into the place and office of a freeman or free fisherman and dredgerman of the said fraternity, company, or society, according to the custom of the said manor and hundred: And

Mandamus to admit to the company of free fishermen and dredgermen of Faversham in Kent.

whereas one Bartholomew Bennett the younger hath served an apprenticeship to Francis Plomer, one of the freemen or free fishermen and dredgermen of the said fraternity, company, or society, nor have you administered the oaths to the said B. B. which are in that case usually administered and taken, although you have been often requested so to do by him the said B. B. but have refused and still do absolutely refuse to admit and swear the said B. B. into the said place and office of one of the freemen or free fishermen and dredgermen of the said fraternity, company, or society, in contempt of us, and to the no small damage and grievance of him the said B. B. and to the manifest lessening of his estate, as we have been informed from his complaint made to us; we therefore being willing that due and speedy justice be done to the said B. B. in this behalf, as it is reasonable, do command you and every of you, firmly enjoining you, that immediately after the receipt of this writ, you or such and every of you to whom it doth of right belong and appertain so to do, without delay do admit or cause to be admitted the said B. B. into the said place and office of one of the freemen or free fishermen and dredgermen of the said fraternity, company, or society, together with all the liberties, privileges, franchises, emoluments, commodities, and advantages to a freeman or free fisherman and dredgerman of the said fraternity or society belonging and appertaining; and that you or such of you to whom it doth belong do duly administer or cause to be administered to the said B. B. the oaths which are in that case usually administered and taken, according to the said custom, or shew us cause to the contrary thereof, that the same complaint may not by your fault be repeated to us, and how you shall have executed this our writ make it appear to us at Westminster, on Monday next after the morrow of All Souls, then returning to us this our writ; and this you are not to omit on peril that may fall thereon. Witness William lord Mansfield, at Westminster, the fifteenth day of July, in the fifteenth year of our reign.

By the court,

BURROW.

By rule of court.

Cave;

The free fishermen or dredgermen of the manor and hundred of Faversham, in Kent, in number one hundred, more or less, in the nature of a prescriptive corporation, fraternity, or company, have from time immemorial, exclusive of all other persons, bred, laid, dredged for, caught, had, and taken oysters in the waters and creeks within the said manor and hundred, and in the arms of the sea near and adjoining hereunto within the liberty of the admiralty, and have sold and disposed of the same to their own use and benefit under certain rules and orders for the well regulating and governing the said fraternity or company from time to time made in the water courts holden by the crown or in the name of the lord of the manor and hundred as grantee of the crown, to which lord of the manor an ancient yearly rent of twenty-three shillings

shillings and four-pence hath been paid from time immemorial, and still is continued to be paid, and who appoints the steward before whom the court is holden.

At one of those courts holden yearly on Saturday next after Easter, such persons as have duly served an apprenticeship of seven years to a free fisherman of the said manor and hundred and are married, are by the ancient usage of the said company admitted to the freedom thereof, but on no other terms.

The abbot of Faversham was seised of the said manor and hundred, and of the said ancient rent of twenty-three shillings and fourpence, in right of his abbey until the dissolution thereof, when the same became vested in the crown, a survey was taken of the said hundred, and of the fishing grounds thereto belonging, by a special jury, and a map made thereof, entitled "A true Map of the Extent of the King's Manor of Faversham by Water, according to a Perambulation taken by a Jury, and digested into the Form," one copy whereof was returned into the king's exchequer, another left with the steward of the court, and a third with the jury, who are tenants to the manor, and thereby ought to have common of fishing all things taken floating in this stream, are to be presented to the court; all things likewise upon the shore are likewise to be restored, if it be within the precincts of the manor; all intruders that presume to fish not being admitted tenants are to be presented and amerced, and the profits arising thereby to be estreated and collected by the bailiff, and answered to the king's receiver at the audit.

Both the said inquisition and map (one part of which map is in the custody of the lord of the manor) set forth and particularly described, the said manor and hundred by water, and the arms of the sea within the said liberty of the admiralty, but the return of them into the exchequer cannot be found.

Whilst the manor was in the crown, the courts were stiled *cur. aquatica*, &c and *cur. aquatica domini regni Caroli tent.* &c. at which all intruders were presented, and orders made for regulating the fishery.

King Charles the First, by letters patent dated the nineteenth day of February, in the fifth year of his reign, granted the said manor and hundred, and the said rent of twenty-three shillings and fourpence to sir Edward Hales, in lay fee, who on the first day of December 1644, by a bargain and sale inrolled in chancery, conveyed the same to George Sondes, knight of the Bath, afterwards Earl of Faversham, and his heirs, and the same are now become vested in the right honourable Lewis Sondes, the present lord thereof, in whose name the water courts are now holden, it being provided in the said grant, and thereby granted that the said Edward Hales, his heirs, and assigns should and might have and hold within the said manor and hundred such courts for the conversation of the waters and preservation of the fishing
Y 3 and

and fishes there, as any abbot or any other theretofore having or possessing the said manor and hundred ought or had accustomed to hold and have, and all profits and commodities thereby anywise coming.

Notwithstanding the courts are holden in the name of the lord of the manor and hundred, yet he hath no power over the oyster grounds, or to any of the oysters therein, or to make orders at any of the water courts; about the year 1721 the then lord of the said manor and hundred claimed the oyster grounds as his own estate, with a right to admit and disfranchise freemen at his pleasure, and to make such orders at court as he might think fit, and to establish in all cases a controuling power over the oyster fishery; whereupon the fishery filed a bill in the exchequer against the lord, and upon an issue directed, which was tried at Maidstone, their rights were established against his lordship, and the fishermen were deemed to be in the nature of a prescriptive corporation, without being under the influence or power of the said lord, only paying him the ancient rent of twenty-three shillings and fourpence; nevertheless as it is difficult and dangerous to bring actions at law in the names of all the free fishermen, they have been always commenced against foreign intruders, in the name of the lord of the manor, with his permission, but none were ever carried to trial, such intruders having always compromised matters by a fine, received by the court for their own use.

The manner of making the orders at the water court is by a foreman and jury; the foreman is annually chosen by the whole body of freemen; of late years two other annual offices, viz. a treasurer and book-keeper, have been chosen in like manner. Until these two last-mentioned officers were appointed, the foreman alone used to name the jury, but for twenty years past and upwards the foreman chuses four only, and the treasurer and book-keeper chuse each of them four more, making in the whole, with the three officers above mentioned, fifteen, all taken out of their own body; and by this jury of fifteen all court orders are made and business of the court conducted, until another general court is holden, when a new jury is chosen in like manner. The orders made at the courts for the most part have penalties subjoined to enforce the due execution of them, which penalties are expressed to be for the use of the lord of the manor and hundred, and are often levied by distress, and applied to his use accordingly.

That at a water court of the right honourable Lewis earl of Rockingham, then lord of the said manor and hundred, holden at Faversham aforesaid, the twenty-seventh day of April 1728, at which time Francis Plomer was foreman of the said court, the following orders were made by the said foreman and jury then impannelled and sworn, viz.

It is ordered by this court, that no tenant (meaning free fisherman or dredgerman) of this manor and hundred shall at any time
after

after the date hereof make free any more than one servant or apprentice, hereafter to be bound, within the space of seven years then next, and that every indenture of apprenticeship hereafter to be made shall be enrolled in the court books at or before the next general court then after to be holden ; and that the steward of the court and the foreman or some other of the jury for the time being shall be witnesses to every such indenture, and for want of such enrolment or witnessing of such indentures, the same indenture or indentures shall be deficient in any of the said kinds, and void and of none effect, and that this shall be a standing order of the said court until the same shall be repealed and made void.

It is also ordered by this court that no tenant of this manor and hundred shall at any time hereafter take an apprentice with a design clandestinely to turn over or hire such apprentice to any sea-faring person whatsoever, and if any such tenant or tenants of this manor and hundred shall at any time hereafter take any apprentice or apprentices, contrary to the true intent and meaning of this order, every tenant offending against this order shall forfeit and pay five pounds for every offence against this order, to be levied to the use of the lord of this manor.

That the said free fishermen and dredgers of the said manor and hundred, in order to enforce the above orders, on the twenty-second day of April 1734, entered into an agreement for that purpose, which was signed by the said Francis Plomer and the other fishermen, then tenants or free fishermen of the said manor and hundred, and was confirmed by the foreman and jury at the then next water court hereinafter mentioned.

That at a water court of the said Lewis earl of Rockingham, holden at Faversham aforesaid, the twenty-seventh day of July 1734, the following order was made by the foreman and jury then impannelled and sworn, viz.

Whereas a certain agreement in writing, bearing date the twenty-second day of April now last past, was made and agreed upon between the several tenants of this manor and hundred, and the same hath been signed by the greatest part of the said tenants, and the rest of them are soon expected to sign and subscribe the same, which said agreement is contained in the words following :

“ Whereas the fishermen and dredgers of Faversham, in the
 “ county of Kent, tenants of the right honourable Lewis earl
 “ of Rockingham, lord of this manor and hundred of Faver-
 “ sham (who have been and shall be hereafter duly sworn and
 “ admitted tenants at the water court of the said manor, accord-
 “ ing to the custom of the manor) are in the nature of a
 “ prescriptive company or corporation, intituled to the oysters
 “ and liberty and right of breeding and dredging for oysters
 “ within the hundred and manor of Faversham aforesaid, and
 “ in the fishery belonging to the same without the low water
 “ mark there, under certain rules and regulations in the said
 “ water court thereof from time to time made for governing
 “ the

“ the same: And whereas upon the death of any of the said
 “ tenants it may happen that the widows and their families have
 “ not sufficient to maintain themselves, and the allowance which
 “ time out of mind has been made by the company to the
 “ widow of every tenant ceases within a year after the death of
 “ such tenant; and whereas the taking too great a number of
 “ apprentices, and sometimes under colour and with a design to
 “ make them tenants and free of the said company has been
 “ found to be very prejudicial to the interest and advantage of
 “ the said company, by increasing the same to too great a
 “ number; now for the making and settling some further and
 “ better provision and maintenance out of the common stock of
 “ the said company for the widows of such tenants as shall at any
 “ time hereafter die, for and towards their maintenance during
 “ their widowhood, and for preventing the inconvenience that
 “ may happen to the said company by taking apprentices as
 “ aforesaid, we whose names are to this agreement subscribed,
 “ tenants of the said manor and hundred, do hereby jointly and
 “ severally promise, agree, consent, and declare, that from hence-
 “ forth when any tenant of this manor shall die, and shall hap-
 “ pen to leave a widow, such widow shall be allowed by the said
 “ tenants and company the whole year's work as usual, and
 “ which according to the custom of the said manor hath been
 “ allowed the widows, and to which the husbands would have
 “ been entitled to if living; and for and towards the future main-
 “ tenance of all and every the widows of such tenants so dying,
 “ we and each and every of us do hereby further promise and
 “ agree to pay and allow, and do hereby order, direct, and ap-
 “ point Robert Downe, the present foreman of the said company,
 “ and all and every other foreman of the said company for the
 “ time being, yearly and every year from and after the expiration
 “ of one whole year next after the death of any tenant of the
 “ said manor or hundred to pay or cause to be paid to each and
 “ every widow of any of the said tenants that shall die forty
 “ shillings a year, yearly and every year for and during the term
 “ of the natural life of such widow, if such widow shall so long
 “ continue sole and unmarried, and from and after her marrying
 “ again such yearly payment shall cease: And we do further con-
 “ sent and agree that all such annual payments as shall be made
 “ to the said widows in pursuance hereof shall be allowed to the
 “ foreman for the time being in his accounts; and we do hereby
 “ also order, direct, promise, and agree that no tenant of the said
 “ manor and hundred shall at any time after the date hereof make
 “ free of this company any more than one servant or apprentice
 “ hereafter to be bound to any tenant within the space of seven
 “ years then next ensuing, and that no tenant belonging to the
 “ said manor and hundred shall at any time hereafter take an ap-
 “ prentice under colour or with design to assign or turn over
 “ such apprentice to a sea-faring man, and at the end of seven
 “ years to get such apprentice made free, as has heretofore been
 “ done,

“ done, to the prejudice of the said company ; and we do hereby
 “ also direct and declare, that no apprentice hereafter to be
 “ bound shall be admitted to the freedom of the said company
 “ and fishery unless such apprentice shall fairly and actually serve
 “ out his apprenticeship of seven years with the tenant he shall
 “ be bound to, or with any other tenant of the said manor to
 “ whom such apprentice shall be assigned or turned over ; and
 “ for the better confirming and establishing the present agree-
 “ ment we do hereby desire that the same may be entered of record
 “ in the court books of the said manor, and that at the next
 “ general water court to be holden for the said manor the fore-
 “ man and jury impaneled and sworn will make the same
 “ an order of the said court, and will further order that the said
 “ agreement signed by us the said tenants may be left with the
 “ foreman of this court for the time being, and that every new
 “ tenant, who shall be hereafter admitted to the freedom of this
 “ company, shall before or immediately on his admission sign
 “ and subscribe his name or mark to this agreement as consent-
 “ ing thereto. Witness our hands the twenty-second day of
 “ April 1734.” Now we the foreman and jury, duly impaneled
 and sworn at this water court holden for the said manor and
 hundred, do in pursuance of the said agreement hereby order and
 direct the same to be entered of record in the court books of the
 said manor, and do approve of, ratify, and confirm the same in
 all points to be observed and kept by all tenants that now
 are or shall be hereafter admitted tenants of the said manor and
 hundred ; and we do also order that the said agreement, signed as
 aforesaid, be now left with and shall always remain and be in
 the custody of the foreman of this court for the time being, and
 that every new tenant who shall hereafter be admitted to the
 freedom of this company shall before or immediately on his ad-
 mission sign and subscribe his name or mark to the same agreement
 as consenting thereto.

That by indenture bearing date the fourth day of August
 1763, B. B. son of B. B. put himself apprentice to the said
 F. P. free fisherman and dredgerman of the said manor and hun-
 dred of F. for the term of seven years from the fourth day of
 June then last, which indenture was duly inrolled in the com-
 pany's book the said fourth day of August 1763.

That the said F. P. (who was a very ancient man) not being
 a housekeeper or a master or owner of any vessel or boat, and
 not having been able to work in the said oyster fishery for many
 years, and consequently having no occasion for the service of an
 apprentice, he the said apprentice sailed on board divers vessels
 and with many different persons, some of them freemen and some
 not, during the whole said term of seven years, and when on
 shore resided with his father in Faversham, and never lodged or
 boarded with the said F. P. or ever occupied or worked in the
 said fishery grounds during the term of his pretended apprentice-
 ship ;

ship; but the master affirmed, that he, during all the said term, received all wages earned by the said apprentice of the persons in whose vessels he sailed during the said seven years, over and above what was sufficient to pay for his board and maintenance, and that the said F. P. from time to time gave receipts in writing for such wages, many of which are now in being, and as it is supposed can be produced.

That the said B. B. the apprentice being married, and having as he alledged duly served the term of seven years to the said F. P. applied to the general water court holden for the said manor and hundred on Saturday after Easter day 1773, and at two several courts afterwards to be admitted to his freedom of the said court, which the foreman and jury thought he was not entitled unto, and therefore they refused it him; and this they apprehended themselves warranted to do by the above orders, the first of which only inflicts a penalty of five pounds on the master for taking an apprentice with a design clandestinely to turn over or hire such apprentice to any sea-faring person; but by the agreement confirmed at the water court holden the twenty-seventh day of July 1734, it was ordered and agreed that no tenant should take an apprentice under colour or with design to assign or turn over such apprentice to a sea-faring man, &c. and that no apprentice should be admitted to the freedom of the said company unless such apprentice should fairly and actually serve his apprenticeship of seven years with the tenant he should be bound to, or with any other tenant to whom he should be assigned.

That the said B. B. having been refused his freedom in Trinity term last, moved the court of king's bench for and obtained a *mandamus*, returnable the sixth day of November next, directed to the steward of the said manor and hundred (a copy of which is hereto annexed) to admit him to his freedom of the said company, which has been duly served on the steward, &c. and at a water court holden the twenty-ninth day of July 1775, the said B. B. with his attorney appeared and demanded his freedom, and tendered the common fine and fees paid on admission, but was again refused his freedom for the reasons before stated, and the court came to a resolution to return the *mandamus*, and try the point with him if they shall be advised there is any probability of success, as, if such apprentices were entitled to their freedoms, the company must greatly increase in number, and thereby be entirely ruined.

That every person at the time of his being admitted to his freedom of the said company, not only subscribes the above-mentioned agreement, but takes the following oath in open court, viz.

“ You shall swear that you from henceforth shall become tenant to the lord of this manor for the fishing grounds you hold of him; you shall do your service, and duly pay your rent according

“ according to the custom of this manor, observe the customary
 “ laws as are made or hereafter shall be made by the tenants, pay
 “ such fines and amerciements as shall be by the jury imposed
 “ upon you, and do in all things as a tenant ought to do as near
 “ as you can.

“ So help you God.”

The said F. P. to whom B. B. was bound apprentice is now dead, and the said B. B. pretends that he never knew of the above orders of court till after the expiration of his apprenticeship, and therefore cannot be bound by them, and that they are nugatory and contrary to the laws of this kingdom, as tending to deprive him of his just rights; and that if such orders are good in law yet they have never been duly observed, several persons having from time to time been admitted to the freedom of the said company since the making the above orders, under the like servitude under which he now claims his freedom, which in several instances within these few years is true; but the evil increasing every year, and beginning to be very alarming on account of the rapid increase of the company, it was judged absolutely necessary to adhere strictly to the orders of court of 1734, upon which the court thought themselves justified in refusing the freedom to the said B. B.

This being settled to be a corporation by prescription, enjoying an exclusive privilege, the succession to which corporation is by servitude, a bye-law to regulate the servitudes so as to prevent fraudulent and collusive servitude, I think is a good bye-law; but I am inclined to think the bye-law limiting the number of apprentices not a good bye-law. The objection to Bennett on the ground of its being not a *bona fide* service would be good, I think, independent of the bye-law, if it can be maintained in evidence, if by the situation of the master it is apparent that he could not be meant to be employed in the dredging, but was only

colourably an apprentice to him, to give **Opinion.** him the privilege without serving at it; I think there he was not entitled, and that the corporation may return the nature of their corporation requiring service for seven years, and that he had not performed such service, and the *mandamus* states the constitution; therefore the corporation need not prove that but the bye-laws of acts relative to the service, so as to shew it no actual service, will be incumbent upon the corporation to prove, and the former, I think, must be stated in return.

J. GLYNN.

The answer of the steward of the water court of the manor and hundred of F. in the county of K. and the foreman and jury of the fraternity, company, or society of freemen or free fishermen and dredgers of the said manor and hundred impannelled and sworn at the said court, and also the freemen of the said fraternity, company, or society.

We the steward of the water court of the manor and hundred of F. in the county of Kent, and the foreman and jury of the fraternity, company, or society of freemen or free fishermen and dredgers of the said manor and hundred, impannelled and sworn at the said court, and also the freemen of the said fraternity, company, or society in the writ to this schedule annexed mentioned, do most humbly certify and return to our most gracious sovereign lord the king, at the time and place in the same writ

writ specified, that true it is that there is, and from time whereof the memory of man is not to the contrary, there hath been a certain ancient and laudable custom used and approved within the said manor and hundred, that every person having served an apprenticeship, for the space of seven years, to any freeman or free fisherman and dredgerman of the said fraternity, company, or society, and being married, hath used and been accustomed and of right ought to be admitted and sworn into the place, office, and franchise of a freeman or free fisherman and dredgerman of the said fraternity, company, or society, and every such person ought by us to be admitted and sworn into the place and office of a freeman or free fisherman and dredgerman of the said fraternity, company, or society, according to the custom of the said manor and hundred, as in the said writ hereunto annexed is in that behalf suggested; but we do further most humbly certify and return to our said lord the king, that the said B. B. the younger, in the said writ named, hath not served an apprenticeship to F. P. one of the freemen or free fishermen and dredgermen of the said fraternity, company, or society for the space of seven years, as in and by the said writ is above supposed; therefore we the said steward of the water court of the manor and hundred of F. in the county of Kent, the foreman and jury of the fraternity, company, or society of free fishermen and dredgermen of the said manor and hundred, impaneled and sworn at the said court, and also the freemen of the said fraternity, company, or society, cannot admit or cause to be admitted the said B. B. into the said place and office of one of the freemen or free fishermen and dredgermen of the said fraternity, company, or society, and administer or cause to be administered to the said B. B. the oaths which are in that case usually administered and taken, as by the said writ we are commanded.

I approve of the return, and think that under this the company may go into evidence of the service to another person than his master, which, if proved, will afford a sufficient ground for the

jury to find that he did not serve F. P. as an apprentice. The like return on the like facts was made and tried at Newcastle, in the case of one Ward.
W. BALDWIN.

Information *quo*
warranto. Defendant usurped the office of alderman of the city of London.

(a) THE KING
against

JOHN HART, ESQUIRE.

LONDON. Be it remembered that sir James Burrow, knight, coroner and attorney of our present sovereign lord the king, in the court of our said present sovereign lord the king, before the king himself, who for our said present sovereign lord the king in this behalf prosecuteth, in his proper person cometh here into the court of our said sovereign lord the king, before the king himself, at Westminster, on Wednesday next after fifteen days from the feast day of Easter in this same term, and for our said present sovereign lord the king, at the relation of John Reynolds, of Salisbury-court, Fleet-street, Lon-

(a) This is in *Quo Warranto*, inserted here by accident.

don, gentleman, according to the form of the statute in such case made and provided, giveth the court here to understand and be informed, that the city of London is an ancient city, and that the mayor, commonalty, and citizens of the said city now have and for the space of ten years now last have been, and long before were one body corporate and politic in deed, fact, and name, by the name of the mayor, commonalty, and citizens of the city of London, that is to say, at the city of London aforesaid, and that within the said city for and during all the time aforesaid there have been and ought to have been divers, to wit, twenty-six aldermen of the said city, that is to say, at the city of London aforesaid, and that the office of an alderman of the said city for and during all the time aforesaid hath been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of the said city, and the administration of public justice within the said city, that is to say, at the city of London aforesaid; and that defendant of the city of London aforesaid, upon the twenty-fourth day of January, in the fifteenth year of the reign of our present sovereign lord George the Third, &c. at the city of London aforesaid, did use and exercise, and from thence continually to the time of exhibiting the information hath there used and exercised, and still doth there use and exercise, without any legal warrant, royal grant, or right whatsoever, the office of one of the aldermen of the said city, and for and during all the time last above-mentioned has there claimed, and still doth there claim, without any legal warrant, royal grant, or right whatsoever, to be one of the aldermen of the said city, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of one of the aldermen of the said city belonging and appertaining, which said office, liberties, and franchises he the defendant for and during all the time last above-mentioned upon our said present sovereign lord the king without any legal warrant, royal grant, or right whatsoever hath usurped and still doth usurp, that is to say, at the city of London aforesaid, in contempt of our said sovereign lord the king, to the great damage and prejudice of his royal prerogative, and also against his crown and dignity; whereupon the said coroner and attorney of our said present sovereign lord the king prayeth the consideration of the court here in the premises, and that due process of law may be awarded against the defendant in this behalf, to make answer to our said present sovereign lord the king, and shew by what authority he claimeth to have, use, and enjoy the office, liberties, privileges, and franchises aforesaid.

And now at this time, that is to say, on Friday next after the morrow of the Holy Trinity in this same term, before our lord the king at Westminster, comes the defendant, by John Wace his attorney, and having heard the said information read complains, and under colour of the premises in the said information contained

States the con-
stitution of the
corporation of
London ;

contained he is greatly vexed and troubled, and that by no means justly, because protesting that the said information and the matters therein contained are not sufficient in law, and that he need not nor is he bound by the law of the land in any manner to answer thereto ; yet for plea in this behalf defendant says he does not apprehend that the said lord the king will or ought further to impeach or trouble the defendant by reason of the premises in the said information above mentioned and specified ; because he says, that true it is that the said city of London is an ancient city, that the said mayor, commonalty, and citizens of the said city now are, and for the space of ten years now last past have been, and long before were one body politic and corporate in deed, fact, and name, by the name of the mayor, commonalty, and citizens of the city of London, and that within the said city for and during all the time aforesaid there have been and ought to have been divers, to wit, twenty-six aldermen of the said city, and that the office of an alderman of the said city for and during all the time aforesaid had been and still is a public office, and an office of great trust and pre-eminence within the said city, touching the rule and government of the said city, as the said coroner and attorney of our said lord the king, for our said lord the king, hath above alledged : And, &c. that the said city of London is, and from time whereof the memory of man is not to the contrary hath been an ancient city, and that the mayor, commonalty, and citizens of the said city, from time whereof the memory of man is not to the contrary have been and still are a body corporate and politic in deed, fact, and name, by the name of the mayor, commonalty, and citizens of the city of London, that is to say, at the city of London aforesaid, and that within the said city, from time whereof the memory of man is not to the contrary, there have been and still are twenty-six wards, that is to say, the wards of Bridge Without, Coleman-street, Candlewick, Dowgate, Farringdon Within, Bridge Within, Lime-street, Portoken, Tower, Vintry, Broad-street, Cordwainers, Queenhithe, Aldersgate, Aldgate, Cripplegate, Castle Baynard, Cornhill, Cheap, Farringdon Without, Bishopsgate, Langbourn, Wallbrook, Bread-street, Biffinshaw, and Billingsgate, that is to say, at the city of London, and that within the said city, from time whereof the memory of man is not to the contrary, there have been, and ought to have been, and still of right ought to be twenty-six citizens and freemen of the said city who have been called aldermen of the said city, that is to say, one aldermen for each and every of the said wards within the said city, to wit, at the city of London aforesaid : And, &c. that from time whereof the memory of man is not to the contrary the election of the aldermen of the several wards of the said city hath been had or made at courts or wardmotes summoned and holden by and before the mayor of the said city for the time being, or his *locum tenens* for that purpose appointed, within such ward respectively, for which such election hath been had and made at the city of London

don aforeaid: And, &c. that every person elected an alderman of the said city, before he hath been admitted into or taken upon himself to execute the office of alderman within the said city, from time whereof the memory of man is not to the contrary, hath taken, and hath used and been accustomed to take, and of right ought to take his corporal oath at a court of mayor and aldermen of the said city, before the mayor and aldermen of the said city, for the faithful execution of the said office of alderman, that is to say, that the city of London aforeaid says, that before the said time of the supposed usurpation in the said information mentioned, and after the making of a certain act of parliament made in the parliament of England, the first late king of Great Britain, &c. at a sessions thereof holden at Westminster, in the said county of Middlesex, in the eleventh year of his reign, intituled, "An Act for regulating Elections within the City of London, and for preserving the Peace, good Order, and Government of the said City," to wit, on the twenty-fifth day of October, in the year of Our Lord 1774, sir William Stephenson, knight, then alderman of the said ward of Bridge Within in the said city, died, to wit, in the city of London aforeaid, and thereupon the office of alderman of the said ward of Bridge Within became and was vacant, to wit, at the city of London: And, &c. that Frederick Bull, then mayor of the said city of London, afterwards, to wit, on the twenty-seventh day of October, in the said year of Our Lord 1774, did in due manner cause a court of wardmote to be duly summoned and held in the said ward of Bridge Within for electing an alderman of the same ward in the place of sir William Stephenson, to wit, at the city of London aforeaid: And, &c. that such court of wardmote was holden on the twenty-seventh day of October 1774, for the purpose aforeaid, at Fishmongers' hall, in the parish of Saint Michael, Crooked-lane, in the said ward of Bridge Within, before the said Frederick Bull, esquire, then mayor of the said city, to wit, at the city of London aforeaid: And, &c. at the said court of wardmote so held as aforeaid, he the said John Hart and William Neate, esquires, were candidates that one of them might be chosen aldermen of the said ward, he the said John Hart then and there being an able and sufficient person and freeman of the said city, and not an alderman of the said city: And, &c. that at the said court of wardmote a poll was demanded by and on the behalf of the said William Neate, and thereupon the said Frederick Bull, the said mayor and presiding officer at the said court of wardmote, did then and there immediately begin such poll, and did duly and orderly proceed on and adjourn the same from day to day until the said poll afterwards and within three days from the commencement thereof, to wit, on the day of October 1774, was in due manner finally closed, that is to say, at the city of London aforeaid: And, &c. that on the said poll at the close thereof he the said John Hart had the majority

that the alderman of Bridge Within died;

and J. H. and W. N. were candidates.

Poll demanded;

and that J. H.
had a majority,
&c.

majority of the votes of the freemen of the said city, being householders of the said ward of Bridge Within, paying scot within the said ward of Bridge Within, according to the form of the statute in such case made and provided, and bearing lot in the said ward when required, voting in that election: And, &c. that within two days after the finishing and closing the said poll, to wit, on the thirty-first day of October 1774, the poll books were in due manner published at the said place of election, and were then and there duly and truly cast up; and afterwards, and before the said time of the said supposed usurpation in the said information mentioned, and within two days after such casting up thereof, to wit, on the second day of November 1774, the numbers of the votes or polls for each of them the said John Hart and William Neate were as follows, that is to say, for the said John Hart ninety-nine votes or polls, and for the said William Neate ninety-five votes or polls, that is to say, at the city of London aforesaid; and the same were then and there truly, faithfully, fairly, and publicly declared to the electors at the said place of election by the said Frederick Bull, and he the said John Hart then and there having a majority of votes on the said poll was then and there by the said Frederick Bull, presiding officer at the said court of wardmote, declared to be duly elected alderman of the said ward; and afterwards, and before the same time of the said supposed usurpation in the said information mentioned, to wit, on the said seventeenth day of January 1775, at the city of London aforesaid, at a court of mayor and aldermen of the said city, holden on the said seventeenth day of January 1775, at the Guildhall of the said city, in the parishes of Saint Lawrence Jewry and Saint Michael Bassishaw, in the said city of London, before John Wilkes, esquire, then mayor, and the aldermen of the said city, and take his corporal oath for the faithful execution of the said office of alderman, and was thereupon then and there admitted into the said office of alderman, and thereupon he the said John Hart became, and was, and still is one of the aldermen of the said city of London, to wit, at the city of London aforesaid, and by that warrant and authority he the said Hart during all the time of the said supposed usurpation in the said information mentioned hath used, and still doth use and exercise the office of one of the aldermen of the said city, and during all the time aforesaid hath there claimed and still doth claim to be one of the aldermen of the said city of London, and to have, use, and enjoy all the liberties, privileges, and franchises to the office of one of the aldermen belonging and appertaining; without this that he the said John Hart the said office, liberties, privileges, and franchises, for and during all the time in the said information mentioned, or any part thereof, hath usurped upon our said present sovereign lord the king, in manner and form as by the said information is above supposed, all and singular which said things he

he the said John Hart is ready to verify as the court shall award; whereupon he prays judgment, and that the said office, liberties, privileges, and franchises by him claimed in form aforesaid, may be allowed and adjudged to him, and that he may be discharged and dismissed by the court here of and from the premises above charged upon him, &c.

F. BULLER.

Trinity Term, 15th Geo. III.

And the said Sir James Burrow, knight, coroner and attorney Replication.
of our said present sovereign lord the king, in the court of our said present sovereign lord the king, before the king himself, who for our said present sovereign lord the king in this behalf prosecuteth, having heard the said plea of the said John Hart by him the said John Hart in manner and form aforesaid above pleaded in bar, for our said present sovereign lord the king saith, that by any thing by the said John Hart in his aforesaid plea above alledged, our said present sovereign lord the king ought not to be debarred from having his aforesaid information against him the said John Hart, because protesting that the said plea of the said John Hart, by him in manner and form above pleaded, is altogether insufficient in law; nevertheless for replication to the said plea, the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that true it is that the said city of London is, and from time whereof the memory of man is not to the contrary, hath been an ancient city, and that the mayor, commonalty, and citizens of the said city, from time whereof the memory of man is not to the contrary, have been and still is a body corporate and politic, in deed, fact, and name, by the name of the mayer, commonalty, and citizens of the city of London, that is to say, at the city of London aforesaid; and that within the said city, from time whereof the memory of man is not to the contrary, there have been and still are twenty-six wards, that is to say, the wards mentioned and specified in the said plea, that is to say, at the city of London aforesaid; and that within the said city, from time whereof the memory of man is not to the contrary, there have been, and ought to have been, and still of right ought to be twenty-six citizens and freemen of the said city, who have been and have been called aldermen of the said city, that is to say, one alderman for each and every of the said wards within the said city, to wit, at the city of London aforesaid; and that from time whereof the memory of man is not to the contrary, the election of the aldermen of the several wards of the said city hath been had and made at courts of wardmote, summoned and holden by and before the mayor of the said city for the time being and his *locum tenens* for that purpose mentioned, within such wards respectively for which such election hath been had and made, to wit, at the city of London aforesaid; and that every

person elected an alderman of the said city, before he hath been admitted into or taken upon himself to execute the office of alderman of the said city, from time whereof the memory of man is not to the contrary, hath taken, and hath been used and accustomed to take, and of right ought to take his corporal oath at a court of mayor and aldermen of the said city, before the mayor and aldermen of the said city, for the faithful execution of the said office of alderman, that is to say, at the city of London aforesaid; and that before the said time of the supposed usurpation in the said information mentioned, and after the making of a certain act of parliament, made in the parliament of the lord George the First, late king of Great Britain, &c. at a session thereof holden at Westminster, in the county of Middlesex, in the eleventh year of his reign, entitled, "An Act for regulating Elections within the City of London, and for preserving the Peace, good Order, and Government of the said City," to wit, on the twenty-fifth day of October 1774, sir William Stephenson, knight, then alderman of the said ward of Bridge Within in the said city, died, to wit, at the city of London aforesaid; and thereupon the office of an alderman of the said ward of Bridge Within, became and was vacant, to wit, at the city of London aforesaid; and that Frederick Bull, esquire, then mayor of the said city of London, afterwards, to wit, on the twenty-seventh day of October, in the said year 1774, did in due manner cause a court of wardmote to be duly summoned and held in the same ward of Bridge Within, for electing an alderman of the same ward in the place of the said sir William Stephenson, to wit, at the city of London aforesaid; and that such court of wardmote was accordingly holden on the said twenty-seventh day of October 1774, for the purpose aforesaid, at Fishmonger's Hall, in the said parish of Saint Michael, Crooked-lane, in the said ward of Bridge Within, before the said Frederick Bull, esquire, then mayor of the said city, to wit, at the city of London aforesaid; and that at the said court of wardmote so held as aforesaid for the purpose aforesaid, he the said John Hart and William Neate, esquires, were candidates, that of them one might be chosen alderman of the same ward, he the said John Hart then and there being an able and sufficient person, citizen and freeman of the said city, and not an alderman of the said city; and that at the said court of wardmote a poll was demanded by and on the behalf of the said William Neate, and thereupon the said Frederick Bull, the said mayor and presiding officer at the said court of wardmote, did then and there immediately begin such poll, and did duly and orderly proceed thereon from day to day until the said poll afterwards, and within three days from the commencement thereof, to wit, on the twenty-ninth day of October 1774, was in due manner finally closed, that is to say, at the city of London aforesaid, in manner and form as the said John Hart in his said plea in that behalf

behalf has above alledged; but the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that on the said poll in the said plea of the said John Hart mentioned, and at the close thereof, he the said John Hart had not the majority of the votes of the freemen of the said ward of Bridge Within, according to the form of the statute in such case made and provided, and bearing lot in the said ward when required, voting in that election, in manner and form as the said John Hart hath in and by his said plea in that behalf above supposed and alledged; and this the said coroner and attorney of our said lord the king for our said present sovereign lord the king prayeth may be enquired of by the country, and the said John Hart doth the like: And the said coroner and attorney of our said present sovereign lord the king further saith, that he the said John Hart was not elected alderman of the said ward of Bridge Within, as the said John Hart in and by his said plea in that behalf above supposed, and this the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king prays may be enquired of by the country, and the said John Hart doth the like: And the said coroner and attorney of our said, sovereign lord the present king for our said present sovereign lord the king further saith, that the said John Hart was not by the said Frederick Bull, presiding officer at the said court of wardmote in the said plea mentioned, declared to be duly elected alderman of the said ward, as the said John Hart hath in and by his said plea in that behalf above alledged; and this the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king prays may be enquired of by the country, and the said John Hart doth the like: And the said coroner and attorney of our said present sovereign lord the king for our said sovereign lord the king saith, that the said John Hart was not at the said court of mayor and aldermen of the said city, in the said plea mentioned, in due manner admitted into the said office of alderman, as the said John Hart hath in and by his said plea in that behalf above alledged; and this the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king prays may be enquired of by the country, and the said John Hart doth the like: And the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that true it is that within two days after the finishing and closing the said poll as aforesaid, to wit, on the said thirty-first day of October 1774, the poll-books were in due manner publicly opened at the said place of election, and were then and there cast up, and afterwards and before the time of the usurpation in the said information mentioned, and within two days after such casting up thereof, to wit, on the said second day of November 1774, the number of votes or polls for each of them the said John Hart and William Neate were publicly declared to the elec-

tors at the said place of election by the said Frederick Bull, in manner and form as the said John Hart hath in and by his said plea in that behalf above alledged: But the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that upon such declaration made as aforesaid, a scrutiny was lawfully demanded, and the same was duly granted and proceeded upon, according to the form of the statute in such case made and provided, to wit, at the city of London aforesaid; and the said William Neate, one of the said candidates, did then and there immediately nominate to the said Frederick Bull, then and there being the presiding officer at the said election, divers persons qualified to vote at the said election, not exceeding six, to wit, Joseph Jewson, William Anderson, William Rawlatt, John Jacob, William Garland, and Samuel Randall to be scrutineers for and on behalf of him the said William Neate; and the said John Hart, the other of the said candidates, did then and there immediately nominate to the said Frederick Bull, so then and there being presiding officer at the said election, divers other persons qualified to vote at the said election, not exceeding six, to wit, Clement Cordero, John Howard, Thomas Hartley, Coles Child, Edward Coster, and Thomas Cable Davis to be scrutineers for and on behalf of him the said John Hart; and the said Frederick Bull was then and there requested on behalf of the said candidates and each of them to deliver or cause to be delivered to them and each of them a true copy of the said poll taken at the said election: And the said coroner and attorney of our said present sovereign lord the king saith, that the said Frederick Bull, the then lord mayor of the said city, then and there adjourned the said wardmote to be holden on a fresh summons, and afterwards and within six days next after such scrutiny was demanded, to wit, on the seventh day of November aforesaid, upon the request and at the charges of the said William Neate, did deliver to him or his scrutineers aforesaid a true copy, signed by the said Frederick Bull, of the poll taken at the said election, and was then and there and at all times within the said six days ready to deliver to the said John Hart or his scrutineers a like true copy of the poll at the said election, upon the request and at the charge of the said John Hart, or any of the scrutineers on his behalf; but the said Frederick Bull was not requested so to do by the said John Hart or any of his scrutineers; and afterwards, to wit, on the ninth day of November aforesaid 1774, the said Frederick went out of the said office of lord mayor of the said city of London, and ceased to be lord mayor thereof, and that the said John Wilkes, esquire, in the said plea named, then and there became, and was, and still is lord mayor thereof, to wit, at the city of London aforesaid; and that afterwards and within ten days after the receipt of the copy of the poll at the said election by the said William Neate, to wit, on the sixteenth day of November aforesaid, the scrutineers of the said William Neate caused to be delivered

delivered to the said Frederick Bull, the aforesaid presiding officer, and to the said John Wilkes, esquire, the then lord mayor of the said city, the names in writing on paper of the several persons who had polled in the said election for the said John Hart, against whose votes they objected, with the particular objections against each respective name; and thereupon the said Frederick Bull, the aforesaid presiding officer, and the said John Wilkes, the then lord mayor, were and each of them was ready at all times within the said three days then next following, at the request and charges of the said John Hart or his scrutineers, to have delivered to him or them one or more true copy or copies signed by the said Frederick Bull aforesaid, presiding officer, and by the said John Wilkes, the said then lord mayor of the said city as aforesaid, containing such notice and objections as aforesaid; And the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that afterwards, and within ten days then next following, to wit, on the twenty-fourth day of November 1774, John Wilkes, esquire, then lord mayor of the said city of London, did in due manner upon a fresh summons cause the said wardmote to be duly summoned and holden of the said ward of Bridge Within, for proceeding in the said scrutiny so as aforesaid demanded, to wit, at the city of London aforesaid, and that the said wardmote was accordingly holden on the said twenty-fourth day of November 1774, for the purpose last aforesaid, at Fishmonger's Hall, in the parish of Saint Michael, Crooked-lane, in the said ward of Bridge Within, before the said John Wilkes, esquire, then lord mayor of the said city, and the said Frederick Bull, esquire, the then late lord mayor of the said city, and the aforesaid presiding officer at the said election, whereof the said John Hart and the said William Neate then and there had due notice, to wit, at the city of London aforesaid: And the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that on the said wardmote so as aforesaid holden on said twenty-fourth November 1774, at Fishmonger's Hall, in the said parish of Saint Michael, Crooked Lane, in the said ward of Bridge Within, before the said John Wilkes, esquire then mayor of the said city, and the said Frederick Bull, esquire, the then late lord mayor, and the aforesaid presiding officer at the said election; the said scrutiny was proceeded upon, and particular objections were then and there made by the said William Neate and his said scrutineers, to wit, the said Joseph Jewson, William Anderson, John Jacobs, and William Garland, against the votes of fifteen persons who polled at the said election for the said John Hart, and against whose votes the same objections were before made in writing, and contained in the said paper so delivered by the said scrutineers of the said William Neate to the said Frederick Bull and the said John Wilkes as aforesaid, the said election for the said John Hart and witnesses was then and there produced and

examined upon oath, in support and proof of the same objections; and the said John Wilkes, esquire, the then lord mayor of the said city, and the aforesaid presiding officer at the said election, and each of them respectively, having fully heard the said objections, and the said evidence so as aforesaid given in support and proof of the aforesaid objections, and did then and there at the said wardmote respectively adjudge and declare who was so-as aforesaid voted and polled at the said election for the said John Hart, and against whom the said objections were so made as aforesaid, were not, nor was any of them intitled to vote and poll at the said election, and having fully heard such of the said candidates as desired the same touching such objection, did then and there respectively publicly declare at and in the place of the said election the number of legal votes for the said William Neate, appearing to them the said John Wilkes, esquire, and Frederick Bull, esquire, upon the said scrutiny to be ninety-five, and the number of legal votes for the said John Hart appearing to them the said John Wilkes, esquire, and Frederick Bull, esquire, upon the said scrutiny to be eighty-four, and did thereupon then and there declare the said William Neate, who was then and there an able and sufficient citizen and freeman of the said city, and not an alderman of the said city, to be duly executed alderman of the said ward of Bridge Within, alland singular which said matters and things the said coroner and attorney of our said present sovereign lord the king, who in this behalf prosecuteth for our said lord the king, is ready to verify and prove as the court shall award; wherefore he prayeth judgment, and that the said John Hart may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the office, liberties, privileges, and franchises aforesaid: And the said coroner and attorney of our said lord the king for our said present sovereign lord the king and, &c. that within the said city of London there now is, and from time whereof the memory of man is not to the contrary, a certain ancient custom that the mayor, aldermen, and commons of the said city of London for the time being, in common council met and assembled, have used and been accustomed to make reasonable laws and constitutions for the well ordering and governing of the said city, and for regulating the admissions of aldermen of the said city, and that the mayor, aldermen, and commons of the said city heretofore, and before the first of June 1725, to wit, on the fifteenth of April, in the thirteenth year of the reign of Ann, called queen of Great Britain and so forth, being met and assembled in common council in the chamber of the Guildhall of the said city, situate in the parish of Saint Michael Bassishaw, in the said city, according to the said usage and custom of the said city, made a certain reasonable law and constitution, whereby, after reciting amongst other things that several ways of electing and presenting more than one person to the said court of lord mayor and aldermen upon a vacancy of an alderman, had been found to be very inconvenient
and

and create unnecessary difficulties in cases where contests did arise, it was then and there enacted and ordained, that from thenceforth in all elections of aldermen of the said city, at a wardmote to be holden for that purpose within the time by the laws of the said city limited for holding the same, there should be election according to the ancient custom by the householders of that ward which should be void of an alderman, a person being a freeman of the said city, and paying scot and bearing lot only, one able and sufficient citizen and freeman of the said city, not being an alderman of the said city, which persons so elected should be returned by the lord mayor or other person duly authorized to hold such wardmote, to the court of lord mayor and aldermen within the time for that purpose by the laws of the said city limited and appointed, and should be by them admitted and sworn well and truly to execute the said office of alderman: And the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king saith, that the said John Hart was not after the said election so as aforesaid made at the said wardmote in the said plea mentioned, or at any time before or after the said scrutiny so demanded as aforesaid, returned by the said Frederick Bull, the said late lord mayor of the said city, or by any other person duly authorized to hold such wardmote, or by the said John Wilkes, esquire, the said succeeding and now lord mayor of the said city, to the said court of lord mayor and aldermen, within the time for that purpose by the laws of the said city limited and appointed, or at any other time before the said supposed admission of the said John Hart unto the said office of alderman; all which said matters and things the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king is ready to verify and prove as the court shall award; wherefore he prayeth judgment, and that the said John Hart may be convicted of the premises above charged upon him, and that he may be forejudged and excluded of and from the offices, liberties, privileges, and franchises aforesaid.

THO. DAVENPORT.

And defendant as to the said plea of the said coroner and attorney by him fifthly in reply pleaded, protesting that that plea and the matters therein contained are not sufficient in law to convict him the defendant of the premises above charged upon him by the said information, nor to forejudge and exclude him of and from the place, office, franchises, and liberties and privileges aforesaid, and that defendant need not, nor is he obliged by the law of the land in any manner to answer thereto, for that it is not alledged therein whether the defendant or the said William Neate had the majority of votes in the said election and supposed scrutiny, or either of them, or which of them the defendant and William Neate was elected alderman of the said ward, and also for that it is not alledged therein before which of them the said

Rejoinder and
Demurrer.

Frederick Bull and John Wilkes the said court of wardmote in that plea lastly mentioned was sworn, and for that the said replication is in other respects insufficient; yet for rejoinder defendant says, that said Frederick Bull, the then mayor of the said city, did not on the said second day of November, in the said year of Our Lord 1774, adjourn the said court of wardmote in manner and form as the said coroner and attorney has in his plea by him fifthly above pleaded by way of reply alledged, and of this defendant puts himself upon the country, and the said coroner and attorney doth the like: And defendant as to the said plea of the said coroner and attorney by him lastly above pleaded in reply says, that that plea and the matters therein contained are not sufficient in law to convict him the defendant of the premises above charged upon him by the said information, nor to forejudge and exclude him of the place, office, franchises, liberties, and privileges aforesaid, and that defendant need not, nor is he obliged by the law of the land to answer thereto; wherefore for want of a sufficient replication in this behalf the defendant prays judgment, and that the office, liberties, privileges, and franchises by him claimed as aforesaid may be allowed and adjudged to him, and that he may be dismissed by the court here of and from the premises above charged upon him, &c.

Joinder in demurrer.

And the said coroner and attorney who for our said lord the king in this behalf prosecuteth saith, that the said plea of the said coroner and attorney by him lastly above pleaded in reply, and the matters therein contained are sufficient in law to convict the defendant of the premises above charged upon him by the said information, and to forejudge and exclude him of and from the office, liberties, franchises, and privileges aforesaid, which said plea and the matters therein contained the said coroner and attorney is ready to verify and prove as the court shall award; and because defendant hath in no wise denied the said plea so lastly above pleaded in reply, or the matters therein contained, nor in any manner answered the same, the said coroner and attorney as before prays judgment, and that defendant may be convicted of the premises above charged upon him, and that defendant may be forejudged and excluded of and from the office, liberties, privileges, and franchises aforesaid.

Mandamus to the justices in session to hear and determine an appeal against an award of commissioners under an inclosure act, where by a foot path was stopped up.

YORKSHIRE, to wit. George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to the keepers of the peace and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed within the west riding of York, and to every of them greeting: Whereas in and by a certain act of parliament made and passed in the thirteenth year of our reign, entitled, "An Act for dividing and enclosing the open and common Fields and Meadow Grounds in the Township of Snaith and Cowick,

“ Cowick, in the County of York,” it is amongst other things enacted and declared, that commissioners appointed in, and by virtue of the said act of parliament, should and might set out and appoint both public ways and private roads in, over, and upon any lands or grounds to be divided and allotted by virtue of the said act, so as all such public roads or highways so to be set out should be and remain sixty feet broad at the least between and exclusive of the ditches, and further that it should not be lawful for any person thereafter to use any road or ways, either public or private, over the new allotments to be set out by virtue of the said act, or any of them, either on foot or with horses, cattle, or carriages, other than such roads or ways which should be set out and appointed as aforesaid, and that all former roads and ways which should not be set out as such should be deemed part of the lands to be divided in the manner directed by the said act, and should be allotted and inclosed as part thereof: And it is further by the said act enacted, that if any person or persons should think him, her, or themselves aggrieved by any expence which should appear by the book of the accounts in the said act mentioned to have been incurred, in relation to the execution of the same act, or by any orders or determinations of the said commissioners in pursuance or under colour of the said act, except in such cases where such orders and determinations are therein before declared to be final, such person and persons may appeal to the quarter sessions of the peace which shall be held in and for the said west riding of our county of York, within six calendar months next after the cause of complaint shall have arisen, and the justices in their said quarter sessions are thereby required to hear and determine the matter of every such appeal, and make such order therein as to them shall seem reasonable and consonant to the true intent and meaning of the said act, which determination of the said justices in sessions on every and any such appeal should be and is thereby declared to be final and conclusive: And whereas we have been given to understand in our court before us, that from time whereof the memory of man is not to the contrary, until the obstruction thereof hereinafter mentioned, there hath been and was a certain common and ancient footway leading eastward from the township of Hensall and Gowdall, in the parish of Snaith, in the said west riding of our county of York, towards the parish church of Snaith aforesaid, over certain parcels of ground, late part of the open town field of Snaith aforesaid, lying west of the town of Snaith, then over a certain ancient inclosure of Charles Yarbrough, esquire, and along the north side of a certain dwelling-house heretofore belonging to John Durham, gentleman, aforesaid, to James Fisher, gentleman, and now to the said C. Y. in the occupation of one Joseph Latham, and from thence to the parish church of Snaith aforesaid, used for all our liege subjects on foot to go, return, and pass at their will and pleasure, and that Edward Waterson, Benjamin Outram, and Isaac Milburn, the
commissioners

commissioners acting under and by virtue of the said act of parliament, did in and by their award or order in writing, bearing date the twenty-seventh day of January in the twenty-first year of our reign, and (amongst other things) set out and appoint a common footway or path leading from a certain road therein named, called Pontefract Road, northward over the above mentioned field, lying west of the said town of Snaith, to an ancient inclosure of the said C. Y. and did not give any orders or directions concerning the road over the said space of twenty-two yards, in consequence whereof, and by virtue of the said act of parliament, the aforesaid ancient footway, leading from the township of Hensall and Gowdall aforesaid towards the parish church of Snaith, was afterwards, to wit, on the twenty-eighth day of February, in the twenty-second year of our reign, obstructed and stopped up for the said space of twenty-two yards, to the great damage and common nuisance of one George Barker and divers other inhabitants of the said township of Hensall and Gowdall, in the said west riding of our county of York; whereupon the said G. B. did by virtue of the said act of parliament in due manner appeal to the general quarter session of our peace which was held in and for the said riding, within six calendar months next after the cause of complaint arose, that is to say, to the general quarter session of our peace held for the said riding by adjournment at Rotherham in the same riding, on the thirty-first day of July last, against the said award, order, and determination of the commissioners, and did give due notice to the said commissioners of his intention to prosecute the said appeal, and did then and there humbly intreat and desire the keepers of our peace and justices assembled and holding the said court of general quarter sessions, to proceed to hear and determine the matter of the said appeal; nevertheless the said keepers of our peace and justices aforesaid did then and there absolutely refuse to hear and determine the matter of the said appeal, and the same still remains pending and undetermined, to the great damage and grievance of the said G. B. as we have been informed from his complaint made to us in that behalf; whereupon he the said G. B. hath humbly besought us that a fit and speedy remedy may be applied in this respect, and we being willing that due and speedy justice should be done to the said G. B. (as it is reasonable), do command you the said keepers of our peace and justices aforesaid, to hear and determine divers felonies, trespasses, and other misdemeanors committed within the west riding of our county of York, and every of you, by firmly enjoining you, that at the next general quarter session of our peace to be held in and for the said riding, you do without further delay proceed to hear and determine the said appeal of the said G. B. and to make such order therein as shall be reasonable and consonant to the true intent and meaning of the said act of parliament, or that you shew us cause to the contrary thereof, lest in your default the same complaint should be repeated to us; and how you shall have executed this our precept make known to us at

Westminster,

Westminster, on Wednesday next after fifteen days from the feast day of Easter, then returning to us this our writ, and this you are not to omit on peril that may fall thereon: Witness, William earl of Mansfield, at Westminster, the twenty-fourth day of January in the twenty-third year of our reign.

By the court.

TEMPLAR.

By rule of court.

SUFFOLK, George III. By the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. to the mayor, aldermen, and burgessees of our borough of Sudbury in our county of S. greeting: Whereas our borough of Sudbury in our county of S. is an ancient borough, and whereas there is, and time out of mind hath been a certain ancient and laudable custom used and approved of within the said borough, that every person being of the age of twenty-one years or upwards, and being the son of a freeman of the said borough, born within the same borough, after his father became a freeman thereof, hath a right in respect thereof to be admitted and sworn into the place and office of one of the freemen of the said borough, and ought by you to be admitted and sworn into the place and office of one of the freemen of the said borough, according to the custom of the said borough; and whereas William Smee is of the age of twenty-one years and upwards, and is the son of Joseph Smee, deceased, one of the freemen of the said borough, and was born within the said borough after his said father was a freeman of the said borough; and whereas the said W. S. by virtue thereof, and according to the said custom ought by you to be admitted and sworn into the said place and office of one of the freemen of the said borough, yet you well knowing the premises, but not regarding your duty in this behalf, have not as yet admitted the said W. S. into the said place and office of one of the freemen of the said borough, nor have you administered the oaths to the said W. S. which are in that case usually administered and taken, although you have been often requested so to do by him the said W. S. but have refused and yet do refuse to admit and swear the said W. S. into the place and office of one of the freemen of the said borough, in contempt of us, to the no small damage and grievance of him the said W. S. and to the manifest injury of his estate, as we have been informed from his complaint to us; we therefore being willing that due and speedy justice be done to the said W. S. in this behalf (as it is reasonable), do command you by firmly enjoining you, that immediately after the receipt of this writ you do without delay admit or cause to be admitted the said W. S. into the said place of one of the freemen of the said borough, together with all the liberties, privileges, franchises, emoluments, and commodities to a freeman of the said borough belonging and appertaining, and that you administer or cause to be administered

Mandamus to admit and swear the son of a freeman, born within the borough after his father became a freeman, into the place of a freeman.

Borough of Sudbury an ancient borough.

Custom to admit and swear the sons of freemen, born in the borough after the father became a freeman, to be freemen, being twenty one years of age or upwards.

Plaintiff is twenty one years of age, and the son of a freeman, &c.

and by virtue thereof ought to be admitted a freeman.

Breach, that defendants refuse to admit and swear him into the office.

Writ commands defendant to admit and swear plaintiff, or shew cause to the contrary.

to

to the said W. S. the oaths which are in that case usually administered and taken according to the said custom, or shew us cause to the contrary thereof, that the same complaint may not by your default be repeated to us, and how you shall have executed this our writ make it appear to us at Westminster, on Monday next after the octave of the Holy Trinity, then returning to us this our writ; and this you are not to omit upon peril that may fall thereon. Witness William Lord Mansfield, at Westminster, the thirteenth day of May, in the eleventh year of our reign.

Return to the writ. Defendants admit the borough of S. to be an ancient borough, but deny the custom alleged.

or that plaintiff's father was a freeman,

or that plaintiff was born after his father was a freeman;

wherefore plaintiff was not entitled to be admitted and sworn.

On which said Monday next after the octave of the Holy Trinity the said mayor, aldermen, and burgesses of the borough of Sudbury in the county of Suffolk, returned the said writ as follows, that is to say: Suffolk, to wit: The answer of the mayor, aldermen, and burgesses of the borough of Sudbury, in the county of Suffolk, to the writ hereunto annexed: We the mayor, aldermen, and burgesses of the borough of S. in the county of S. mentioned in the writ annexed to this schedule, do most humbly certify and return unto our most gracious sovereign lord the king, upon the day and at the place in the said writ mentioned, that true it is that the said borough of S. is an ancient borough, but that there is not nor from time out of mind hath been a certain ancient and laudable custom used and approved within the said borough, that every person being of the age of twenty-one years or upwards, and being the son of a freeman of the said borough, born within the said borough after his father became a freeman thereof, hath a right in respect thereof to be admitted and sworn into the place and office of one of the freemen of the said borough, as in the aforesaid writ is suggested: And we do further certify and return that J. S. deceased, in the said writ mentioned, was not one of the freemen of the said borough, as in the aforesaid writ is untruly suggested: And we do further certify and return, that the said W. S. was not born in the said borough after his father was made a freeman of the said borough, as in the said writ is also untruly suggested; wherefore the said W. S. was not nor is entitled to be admitted and sworn into the place and office of a freeman of the said borough, and for these reasons we the said mayor, aldermen, and burgesses of the said borough of S. in the county of S. have not admitted and sworn, and caused to be admitted and sworn, the said W. S. into the place and office of one of the freemen of the said borough, together with all the liberties, privileges, franchises, emoluments, and commodities to a freeman of the said borough belonging and appertaining; neither have we administered or caused to be administered to the said W. S. the oaths which are in such case usually administered and taken, nor can and ought we so to do.

And

And thereupon on the same Monday next after the octave of the Holy Trinity, before our said lord the king at Westminster, came as well the said W. S. in the said writ and return named, by F. B. his attorney, as the said mayor, aldermen, and burgeses of the said borough of Sudbury in the said county of S. in the aforesaid writ and return likewise named, by their attorney, and the said W. S. having heard the said writ and return read, protesting that the said return and the matters therein contained are insufficient in law to bar or preclude him the said W. S. from having a peremptory writ of *mandamus* in this behalf; for plea the said W. S. by force of the statute in such case made and provided, saith that there is, and from time out of mind hath been a certain ancient and laudable custom used and approved within the said borough, that every person, being of the age of twenty-one years or upwards, and being the son of a freeman of the said borough, born within the said borough after his father became a freeman thereof, hath a right in respect thereof to be admitted and sworn into the place and office of one of the freemen of the said borough, in manner and form as in the said writ is suggested; and the said W. S. prays that this may be enquired of by the country, and the said mayor, aldermen, and burgeses do the same likewise, &c.: And the said W. S. by force of the statute in such case made and provided further saith, that the said J. S. deceased, in the said writ mentioned, was one of the freemen of the said borough, in manner and form as in the said writ is suggested, and the said W. S. prays that this also may be enquired of by the country, and the said mayor, aldermen, and burgeses do the same likewise: And the said W. S. by force of the statute in such case made and provided, further saith, that he the said W. S. was born in the said borough after his father was made a freeman of the said borough, in manner and form as in the said writ is also suggested; and the said W. S. prays that this also may be enquired of by the country, and the said mayor, aldermen, and burgeses do the same likewise.

Plea to return to *mandamus*.

Plaintiff protesting that the return is insufficient, pleads, 1st,

that there is such custom as in the writ is suggested,

2d plea, that plaintiff's father was a freeman.

3d plea, that plaintiff was born in the borough after his father was freeman.

GEORGE the Second, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, to Lionel Seaman, vicar of the parish church of Froome Sellwood in our county of Somerset, and also to the churchwardens of the parish aforesaid, in our county aforesaid, and to every of them, greeting: Whereas Thomas Baily hath been duly appointed and admitted into the place and office of sexton of the said parish of Froome Sellwood, in our county aforesaid, in which said place and office he the said Thomas Baily always behaved and governed himself well, yet you the said Lionel Seaman, vicar of the said parish church of Froome Sellwood aforesaid, in our county aforesaid, and you the said churchwardens of the same parish, well knowing the

Mandamus to vicar and churchwardens to restore to the office of sexton.

the premises, but not regarding your duty in this behalf, having without any just or reasonable cause whatsoever unduly and unjustly removed the said Thomas Baily from the said place and office, and have also absolutely refused and yet do refuse to suffer or permit him the said Thomas Baily to execute or exercise the same place and office, in contempt of us, and to the great damage and grievance of him the said Thomas Baily, and to the manifest injury of his estate, as we have been informed from his complaint made unto us in that behalf; we therefore being willing that due and speedy justice should be done to him the said Thomas Baily in this behalf (as it is just and reasonable), do demand and require you the said Lionel Seaman, vicar of the said parish church of Froome Sellwood, in our county aforesaid, and you the said churchwardens of the same parish, and every of you, firmly enjoining you and every of you that immediately after the receipt of this our writ you do without delay restore or cause to be restored to him the said Thomas Baily to the said place and office, together with all and singular the rights, liberties, privileges, and franchises whatsoever to the said place and office belonging or in any wise appertaining, and that you suffer and permit him the said Thomas Baily to execute and exercise the same place and office, and to have, take, and receive all the fees, profits, perquisites, benefits, and advantages of right belonging and appertaining to the same, or shew us cause to the contrary thereof; lest by your default complaint thereof should again be made unto us, and how you shall have executed this our writ make known unto us at Westminster, upon Tuesday next after the morrow of Saint Martin, then returning to us this our writ; and this you are not to omit on peril that may fall thereon. Witness sir William Lee, knight, at Westminster, the twenty-fifth day of October, in the seventeenth year of our reign.

By the court,

BURROW.

Writ of *mandamus* to a rector to admit a parish clerk.

—GEORGE the Second, by the grace of God, &c. to H. G. doctor in divinity, rector of the parish of Saint Giles's in the Fields, in our county of Middlesex, greeting: Whereas at a vestry held in and for the parish aforesaid, now last past, Joseph Hillman was duly elected and chosen into the place and office of parish clerk of the parish church of the parish of Saint Giles's in the Fields aforesaid, in our said county of Middlesex, by the major part of the said vestrymen then present, and for that purpose duly assembled, according to ancient custom from time immemorial used and approved of in the said parish in that behalf, and by you ought to be admitted into the said place and office: And whereas the said J. Hillman did after his said election duly present and offer himself to you to be admitted into this place and

and office of vestry clerk of the parish church aforesaid, yet you well knowing the premises, have absolutely refused and still do absolutely refuse to admit the said J. H. into the said place and office, in contempt of us, and to the great damage and grievance of the said Joseph Hillman, as we have understood from his complaints made before; we therefore being willing that due and speedy justice be done to the said J. H. in this behalf, as is just, do require and command you firmly enjoining that immediately after the receipt of this our writ you do without delay admit and cause to be admitted him the said J. H. into the said place and office of parish clerk of the parish church aforesaid, together with all the liberties, privileges, and profits to the said place belonging and appertaining, or shew us cause to the contrary thereof, lest by your default the said complaint do again come before us, and in what manner you shall execute this our writ make it appear to us at Westminster, on Saturday next after the octave of the Holy Trinity, then returning to us this our writ; and this you are not to omit upon peril that may fall thereon. Witness William lord Mansfield, the twelfth day of January, in the thirty-second year of our reign.

By the court,

BURROW.

The answer of G. H. doctor in divinity, rector of the parish of Saint Giles's in the Fields, in the county of Middlesex, most humbly certify and returns our sovereign lord the king, at the day and place within contained, that the within named J. H. was never elected into the place and office of parish clerk of the within parish church of the parish of Saint Giles's in the Fields, in the county of Middlesex aforesaid, according to the ancient custom, from time immemorial used and approved of within the said parish in that behalf, as by the within writ is suggested; therefore I cannot admit the said J. H. or cause him to be admitted into the said place or office of parish clerk aforesaid, together with the liberties, privileges, and profits to the said place and office belonging and appertaining, as by the within writ I am commanded.

Return to the above writ, that he was not elected according to the ancient custom.

HENRY GALLEY.

Middlesex. Joseph Hillman complains of Henry Galley, doctor of divinity, rector of the parish of Saint Giles in the Fields, in the county of Middlesex, being for that whereas within the parish of Saint Giles in the Fields, in the county of Middlesex aforesaid, there is and from time whereof, &c. there hath been an ancient and honourable custom there used and approved of, that the vestry men for the time being, at the vestry held in and for the parish aforesaid, or the major part of

Declaration on the *mandamus* to try the right of electing a parish clerk.

of them for the time being, for that purpose duly assembled in the vestry room belonging to the parish aforesaid, in the said parish church of the said parish, have elected and chosen, and have been used and accustomed to elect and chuse, and of right ought to have elected and chosen, and still of right ought to elect and chuse a parish clerk of the parish church of the said parish when and so often as that office hath been vacant : And whereas the said place and office of parish clerk at the parish church aforesaid, before the issuing of the said writ of *mandamus* herein-after mentioned, and on the first day of May 1769 became and was vacant, and being so vacant he the said plaintiff afterwards, to wit, at a vestry held in and for the parish aforesaid, on Friday the twenty-third day of May, A. D. 1760 aforesaid, he the said plaintiff was duly elected and chosen into the said place and office of parish clerk of the said parish church of Saint Giles's aforesaid, in the county aforesaid, by the major part of the vestry men of the said parish then and there present, for that purpose first had and obtained, according to the said ancient custom, from time, &c. within the said parish in that behalf used and approved of, whereof the said defendant who before and at the time of that election was, and from thence hitherto hath been, and still is rector of the said parish after the election of the said plaintiff, and before issuing of the writ of *mandamus* hereafter mentioned, to wit, on the day and year last aforesaid, at the parish and in the county aforesaid, had notice ; and being so rector aforesaid, he the said defendant ought of right to have admitted the said plaintiff into the said place and office of parish clerk of the parish church aforesaid, and for that purpose did after his said election, to wit, on the twenty-fourth day of May, A. D. 1760 aforesaid, at, &c. aforesaid, duly present and offer himself to be admitted into the said place and office of parish clerk of the parish church aforesaid, but was then and there refused to be admitted into the same : And the said plaintiff further says, that in order to compel him the said defendant to admit the said plaintiff into the said place and office of parish clerk of the parish church aforesaid, into which he had been so chosen and elected as aforesaid, afterwards, to wit, on the, &c. A. D. 1760, and in the thirty-third year of the reign of our lord the now king, a certain writ of *mandamus* of our said lord the king in due manner was issued out of the court of our said lord the king, before the king himself, the same court being held at Westminster, in the county of Middlesex aforesaid, directed to the said defendant, then rector of the said parish, by which said writ of our said lord the king, &c. [reciting the whole writ of *mandamus* as before recited to these words : And that the said defendant was not to omit upon peril that might fall thereon], by which said writ afterwards, and before the return thereof, to wit, on the said, &c. in the thirty-third year of the reign of our said lord the king, at the parish aforesaid, within the said county of Middlesex, was delivered

livered unto the said defendant, being then and until, and at and after the return of that writ thereof, rector of the said parish, by the said plaintiff to be executed in due form of law; nevertheless the said defendant, not regarding the duty of the said office and the command of the said writ, but contriving and maliciously intending to injure the said plaintiff, and to deprive him of the benefits, profits, and advantages of the said place and office of parish clerk of the parish church aforesaid, unto which he had been elected and chosen as aforesaid, and to which said place and office he was lawfully entitled and ought to have been admitted, therein did not obey and execute the said writ, but obstinately and artfully refused so to do; and afterwards, to wit, at the said return of that writ, he the said defendant being then rector of the said parish, did falsely and fraudulently, and deceitfully certify and return on that writ to the said court of our said lord the king, before the king himself here, to wit, at Westminster, in the county of Middlesex aforesaid, that the said plaintiff was never elected, &c. [reciting the return of the writ at court to these words, "as by the said writ he was commanded"], as by the said writ and return thereof remaining of record in the said court of our said lord the king, before the king himself at Westminster aforesaid, manifestly appears: Whereas in truth and in fact the said plaintiff avers, that he the said plaintiff before the time of the issuing of the said writ, to wit, on, &c. had been and was duly elected and chosen into the said place and office of parish clerk of the said parish church of the said parish of Saint Giles's in the Fields, by the said major part of the said vestry men, then and there assembled for that purpose, according to an ancient custom from time, &c. within the said parish in that behalf, and ought to have been admitted and yet of right ought to be admitted into the said place and office; by reason of which neglect and refusal of the said defendant to obey the said writ, and his aforesaid false and deceitful return thereof, he the said plaintiff hath been wrongfully deprived of the benefits and advantages that would otherwise have accrued to him from the said place and office of parish clerk of the said parish church of the parish aforesaid, and which, by virtue of his election aforesaid, he ought to have had and enjoyed, and yet of right ought to have and enjoy, to wit, at the parish aforesaid, in the county aforesaid, to plaintiff's damage of five hundred pounds, and therefore he brings his suit, &c.

Pledges to prosecute { JOHN DOE
and
RICHARD ROE.

WHEREAS our trusty and well beloved Thomas Bolde, gentleman, for and on the behalf of Richard Tucker, of our bo-
king's serjeant at law to be of counsel for

(a) Petition for
licence to the
the defendant.

(a) This form will answer in any criminal suit where it is thought expedient to have king's counsel for the defendant or person accused.

MANDAMUS.

rough and town of Waymouth and Melcombe Regis, in our county of Dorset, esquire, hath by his petition humbly presented unto us, that in Hilary term last, an information in nature of *quo warranto* was granted and exhibited in our court of king's bench, and prosecuted in our name against the said Richard Tucker, for claiming to be mayor of our said borough and town of Waymouth and Melcombe Regis, which cause is still depending in our said court of king's bench, and to be tried at the next assizes for our county of Dorset, that the said Richard Tucker hath in the proceedings relating to the said information before the granting thereof, advised with our trusty and well beloved Thomas Burnet, esquire, one of our serjeants at law, whose advice and assistance he will greatly stand in need of in making his defence to the said information, that in regard the prosecutor of the said information have retained several counsel learned in the law to be concerned for them; the petitioner has therefore humbly prayed us to grant our permission and licence to the said Thomas Burnet to be of counsel for the said Richard Tucker in the said cause, we are graciously pleased to condescend to his request, and we do by these presents dispense with the said Thomas Burnet, and give him full leave, licence, and permission to appear in the behalf of the said Richard Tucker, and to be of counsel for him in the said cause whenever it shall be necessary. Given at our court at St. James's, the twenty-seventh day of February, 1749, in the fourteenth year of our reign.

By his majesty's command.

Hilary Term, 29. Geo. III.

Mandamus to admit to the freedom of the city after the service of apprenticeship for five years.

ROCHESTER, KENT. George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. to the mayor, aldermen, and common council of our city of R. in the county of K. greeting: Whereas our said city of R. is an ancient city, and whereas Thomas Houlton Bond was on the sixteenth day of July 1773, by indenture of apprenticeship duly executed by him and one Daniel Bunce of the said city of R. baker, a freeman of the said city, bound an apprentice to the said Daniel Bunce for the full term of seven years, to commence and be computed from the fourteenth day of June then last past, in which said indenture it is expressed, that the said T. H. B. is to be instructed in the art and mystery of a baker, and afterwards under the said indentures served an apprenticeship to the said Daniel Bunce, who exercised the said art and mystery within the said city for a long space of time, to wit, for the space of five years, when the said Daniel Bunce died, and after the death of the said Daniel B. continued under the said indenture to serve an apprentice to Sarah B. (afterwards Sarah Savage) widow and executrix of the said

saïd Daniel Bunce, who carried on the trade of a baker within the saïd city for the remaining part of the seven years unexpired at the death of the saïd Daniel Bunce, and until the end and final period of the saïd indentures of apprenticeship; by virtue whereof he the saïd T. H. B. according to the liberties and privileges heretofore granted by charter of our predecessors kings or queens of Englands to you and your predecessors, or to some of them; and also for the ancient and laudable custom used and approved of within the saïd city for time out of mind ought to be admitted and sworn a freeman of the saïd city, yet you well knowing the premises, but not regarding your duty in this behalf, have not as yet admitted the saïd T. H. B. a freeman of the saïd city, nor have you administered the oaths to the saïd T. H. B. which are in that case usually administered and taken, although you have been often requested so to do by the saïd T. H. B. but have refused, and yet do refuse to admit and swear the saïd T. H. B. one of the freemen of the saïd city, in contempt of us, and to the no small damage and grievance of the saïd T. H. B. and to the manifest injury of his estate, as we have been informed from his complaint to us; we therefore being willing that due and speedy justice be done to the saïd T. H. B. in this behalf, as is reasonable, do command you, firmly enjoining you, that immediately after the receipt of this our writ you do without delay admit or cause to be admitted the saïd Thomas H. Bond a freeman of the saïd city, together with all the liberties, privileges, franchises, emoluments, and commodities belonging and appertaining to a freeman of the saïd city, and that you administer or cause to be administered to the saïd Thomas Houlton Bond the oaths which are in that case usually administered and taken, according to the saïd custom, or shew us cause to the contrary thereof, that the saïd complaints be not by your default repeated to us, and how you shall have executed our writ make it appear to us, at Westminster, on Wednesday next after three weeks from the Feast Day of Easter, then returning to us this our writ, and this you are not to omit on peril that may fall thereon. Witness Lloyd lord Kenyon, at Westminster, the twelfth day of February, in the twenty-ninth year of our reign.

By the court,

TEMPLER.

By rule of court.

To which *mandamus* the saïd corporation made the following return:

Michaelmas Term, 30. Geo. III.

The answer of the mayor, aldermen, and common council of the city of R. in the county of K.

Return that T. H. B. did not serve, &c.

We the saïd mayor, aldermen, and common council of the saïd city of R. in the saïd county of K. to whom the writ to this schedule annexed is directed, do most humbly certify and return to our most gracious sovereign lord the king, at the time

A 2 2

and

and place in the said writ specified, that although the said T. H. B. in the said writ named was in the month of July 1773, by indentures of apprenticeship duly executed by the said T. H. B. and Daniel Bunce, of R. baker and freeman of the said city, in the said writ likewise named, bound an apprentice to the said Daniel Bunce for the term of seven years, in manner and form and as by the said writ is alledged; yet we do further most humbly certify and return that the said Thomas H. B. did not serve nor hath served the said Daniel Bunce as an apprentice within the city of R. aforesaid for the space of five years when the said Daniel Bunce died, as in and by the said writ is alledged: And we do further most humbly certify and return, that the said Thomas H. B. after the death of the said Daniel Bunce did not continue to serve nor hath served as an apprentice to the said Sarah B. (afterwards S. Savage) in the said writ also named, widow and executrix of the said Daniel Bunce, within the said city of R. for the remaining part of the said seven years in the said writ mentioned, unexpired at the death of the said Daniel Bunce, in manner and form as by the said writ is alledged; for which reasons we the said mayor, aldermen, and common council cannot admit or cause to be admitted him the said T. H. B. one of the freemen of the said city, nor can we administer or cause to be administered to the said T. H. B. the oaths which are in that case usually administered and taken, according to the custom of the said city, as by the said writ we are commanded, &c. William Spice, mayor, R. T. S. N. James B. Thomas H. R. B.

HIGH

INDICTMENTS.

HIGH TREASON.

MIDDLESEX, to wit. Be it remembered that on Thursday next, after three weeks from the day of the Holy Trinity, in the thirty-fifth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. in the court of our said lord the king before the king himself, at Westminster, in the county of Middlesex, upon the oath of Robert Stephenson, esquire, Simon Le Sage, esquire, Hezekiah Greene, esquire, Robert Lewis, esquire, Edward Read, esquire, John Groves, esquire, John Thompson, esquire, John Sich, esquire, John Spinage, esquire, Thomas Bramley, esquire, John Nicholl, esquire, William Dickey, esquire, Blanchard Coward, esquire, Peter Henderson, esquire, Jeffrey Merryweather Shaw, esquire, William Parker, esquire, John Alexander, esquire, Thomas Davis, esquire, Thomas Marthwaite, esquire, Edward Hippesley, esquire, and Joseph Thackery, esquire, good and lawful men of the said county of Middlesex, now here sworn and charged to enquire for our said lord the king for the body of the said county; it is presented as followeth, that is to say,

Captain.

Middlesex, to wit. The jurors for our lord the king upon their oath present, that on the first day of March, in the thirty-fourth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. and long before and continually from thence hitherto an open and public war was and yet is prosecuted and carried on between our said lord the king and the persons exercising the powers of government in France, that is to say, at Old Ford, in the county of Middlesex, and that William Stone, late of Old Ford aforesaid, in the county of Middlesex aforesaid, merchant, a subject of our said lord the king of his kingdom of Great Britain, well knowing the premises, but not regarding the duty of his allegiance, nor having the fear of God in his heart, and being moved and seduced by the instigation of the devil, as a false traitor against our said lord the king, and wholly withdrawing the

Indictment.

1st Count, for compassing the death of the king, and to depose him.

wit, on the said first day of March, in the thirty-fourth year
 aforesaid, and on divers other days as well before as after that
 day, at Old Ford aforesaid, in the county of Middlesex aforesaid,
 well knowing the said William Jackson traiterously to have come
 to and landed in this kingdom for the traitorous purpose of procur-
 ing and obtaining intelligence and information whether the sub-
 jects of our lord the king *were or were not well affected to our*
said lord the king and his government, and were or were not
 likely to join with and assist the forces of the said persons exer-
 cising the powers of government in France, and being enemies
 of our said lord the king as aforesaid, in case an hostile invasion
 of this kingdom should be made by them for the prosecution of
 the said war against our said lord the king, and of sending and
 causing to be sent such intelligence and information to the said
 persons exercising the powers of government in France, and
 being enemies of our said lord the king as aforesaid, for the aid,
 assistance, direction, and instruction of the said enemies of our
 said lord the king in their conduct and prosecution of the said
 war against our said lord the king, did with force and arms mali-
 ciously and traiterously *receive and treat with the said William*
Jackson at Old Ford aforesaid, in the county of Middlesex aforesaid,
 for the aid, assistance, and direction of the said William
 Jackson in the prosecution, performance, and execution of his
 traitorous purpose aforesaid, and did then and there maliciously
 and traitorously treat, consult, and converse with, and did then
 and there maliciously and traitorously *aid, comfort, abet, and*
assist the said William Jackson in, about, and concerning the
 prosecution, performance, and execution of his the said William
 Jackson's traitorous purpose aforesaid: And further to fulfil, To collect in-
 perfect, and bring to effect his most evil and wicked treason formation here
 and treasonable compassing and imaginations aforesaid, he the and in Ireland
 said William Stone as such false traitor as aforesaid, whether any
 during the said war, to wit, on the said first day of March, in the thirty- and what part
 fourth year aforesaid, and on divers other days as well before as were disposed
 after that day, at Old Ford aforesaid, in the county of Middle- to assist, &c. in
 sex aforesaid, with force and arms maliciously and traitorously hostile invasion,
 did conspire, consult, consent, and agree with the said John Hur- and communi-
 ford Stone, William Jackson, and divers other false traitors cating the same.
 whose names are to the said jurors unknown, *to collect and obtain,*
and cause to be collected and obtained information and intelligence
within this kingdom and the kingdom of Ireland, whether any and
what part of the subjects of our said lord the king were disposed
to aid and assist the said persons exercising the powers of govern-
 ment in France, and being enemies of our said lord the king as
 aforesaid, in an hostile invasion of any and what part of this king-
 dom or of the kingdom of Ireland, for the prosecution of the
 said war against our said lord the king, *and to communicate, notify,*
and reveal, and cause to be communicated, notified, and revealed.
such intelligence and information to the said persons exercising
 the powers of government in France, and being enemies of our
 said

Enquiring, collecting, and obtaining information from divers persons whether the subjects were or were not well-affected to join and assist in an hostile invasion, and with intent to communicate, &c.

Obtaining and keeping in his custody instructions, &c. containing information how the subjects were affected and likely to act in case of invasion.

Sending notes, &c. and intelligence in writing how, &c. and in what manner, &c.

said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did *enquire and cause to be enquired of divers persons in this kingdom, and did collect and obtain and cause to be collected and obtained from such persons information and intelligence whether the subjects of our said lord the king were or were not well-affected to our said lord the king and his government, and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in case an hostile invasion should be by them made into this kingdom for the prosecution of the said war against our said lord the king, with intent to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did obtain, and in his custody and possession did keep divers letters, notes, memorandums, and instructions in writing, containing information and intelligence how the subjects of our said lord the king were affected to our said lord the king and his government, and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the prosecution of the said war against our said lord the king, with intent to communicate, notify, reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king as aforesaid, in their conduct and prosecution of the said war against our said lord the king: And*

further

further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations afore-
 said, he the said William Stone, as such false traitor as afore-
 said, during the said war, to wit, on the said first day of March, in the thirty-fourth year afore-
 said, and on divers other days as well before as after that day, at Old Ford afore-
 said, in the county of Middlesex afore-
 said, with force and arms maliciously and traitorously did *send and cause and procure to be sent from this kingdom to be delivered in foreign parts beyond the seas, divers other letters, notes, memorandums, and intelligence in writing, containing information and instructions how the subjects of our said lord the king were affected to our said lord the king and his government, and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as afore-
 said, for the prosecution of the said war against our said lord the king, with intent to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as afore-
 said, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations afore-
 said, he the said William Stone, as such false traitor as afore-
 said, during the said war, to wit, on the said first day of March, in the thirty-fourth year afore-
 said, and on divers other days as well before as after that day, at Old Ford afore-
 said, in the county of Middlesex afore-
 said, with force and arms maliciously and traitorously did with the said William Jackson, and divers other false traitors, whose names are to the said jurors unknown, conspire, consult, consent, and agree to raise, levy, and make insurrection, rebellion, and war against our said lord the king within his kingdom of Ireland, and to cause, procure, and incite the said persons exercising the powers of government in France, and being enemies of our said lord the king as afore-
 said, to invade the kingdom of Ireland with ships and armed men, and to carry on the said war against our said lord the king within the kingdom of Ireland: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations afore-
 said, he the said William Stone, as such false traitor as afore-
 said, during the said war, to wit, on the said first day of March, in the thirty-fourth year afore-
 said, and on divers other days as well before as after that day, at Old Ford afore-
 said, in the county of Middlesex afore-
 said, with force and arms maliciously and traitorously did conspire, consult, consent, and agree to and with the said William Jackson, and divers other false traitors whose names are to the said jurors unknown, that he the said William Jackson should go to and land in the kingdom of Ireland, for the*
traitorous

To raise rebellion in Ireland.

and that W. J. should go to and land in Ireland, for purpose, &c.

Corresponding
with W. J.
whilst in Ire-
land.

Supplying him
with money,
&c.

traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king of his kingdom of Ireland were or were not well-affected to our said lord the king and his government, and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in case an hostile invasion of the said kingdom of Ireland should be made by them for the prosecution of the said war against our said lord the king, and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king, and did then and there maliciously and traitorously aid and assist the said William Jackson in going to and landing in the said kingdom of Ireland, for the prosecution, performance, and execution of the traitorous purpose last-mentioned, and which said William Jackson in pursuance of the said last-mentioned conspiracy, consultation, consent, and agreement heretofore and during the said war, to wit, on the twenty-eighth day of March, in the thirty-fourth year aforesaid, did go to and land in the kingdom of Ireland, and did stay and continue there for a long time, to wit, for the space of one month, for the prosecution, performance, and execution of the traitorous purpose last-mentioned: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid, he the said William Stone, as such false traitor as aforesaid, after the said William Jackson had gone to and landed in the said kingdom of Ireland, for the traitorous purpose last-mentioned, and while the said William Jackson remained and continued in the said kingdom of Ireland for the traitorous purpose last-mentioned, and during the said war, to wit, on the fifth day of April, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did correspond with, advise, counsel, aid, abet, and assist the said William Jackson in and about the prosecution, performance, and execution of the traitorous purpose last-mentioned: And further to fulfil, perfect, and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did furnish and supply, and cause to be furnished and supplied, and aid and assist in furnishing and supplying the said William Jackson with divers sums of money, bills of exchange, and notes

notes for payment of money, thereby to enable the said William Jackson to fulfil, perform, and execute his the said William Jackson's traitorous purposes before mentioned, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, contrary to the duty of the allegiance of him the said William Stone, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown, and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that on the said first day of March, in the thirty-fourth year aforesaid, and long before and continually from thence hitherto an open and public war was and yet is prosecuted and carried on between our said lord the king and the persons exercising the powers of government in France, to wit, at Old Ford aforesaid, in the county of Middlesex aforesaid, and that the said William Stone well knowing the premises, but not regarding the duty of his allegiance, nor having the fear of God in his heart, and being moved and seduced by the instigation of the devil as a false traitor against our said lord the king, and wholly withdrawing the allegiance, fidelity, and obedience which every true and faithful subject of our said lord the king should and of right ought to bear towards our said lord the king, and contriving, and with all his strength intending to aid and assist the said persons exercising the powers of government in France, and being enemies of our said lord the king in the prosecution of the said war against our said lord the king heretofore and during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, with force and arms, at Old Ford aforesaid, in the county of Middlesex aforesaid, maliciously and traitorously *was adhering to and aiding and comforting the said persons exercising the powers of government in France*, then being enemies of our said lord the king as aforesaid, and that in the prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did conspire, consult, consent, and agree with the said John Hurford Stone, William Jackson, and divers other false traitors whose names are to the said jurors unknown, to aid and assist, and to seduce, persuade, and procure divers subjects of our said lord the king to aid and assist the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in an hostile invasion of the dominions of our said lord the king, and in the prosecution of the said war against our said lord the king: And in further prosecution, performance, and execution of his treason *and traitorous adhering aforesaid*, he the said William Stone as such false traitor as aforesaid, during the said

ad Count, adhering to king's enemies,

Overt act.

Conspiracy to raise rebellion,

Treating and
receiving W. J.
knowing him
to have come
here for the
purpose, &c.

And how the
people in Ire-
land were af-
fected, &c.

saïd war, to wit, on the saïd first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did conspire, consult, consent, and agree with the saïd John Hurford Stone, William Jackson, and divers other false traitors whose names are to the saïd jurors unknown, to raise, levy, and make insurrection, rebellion, and war within this kingdom against our saïd lord the king, and to invite, persuade, and procure the saïd persons exercising the powers of government in France, and being enemies of our saïd lord the king as aforesaid, to invade this kingdom with ships and armed men, and to prosecute and carry on the saïd war against our saïd lord the king within this kingdom: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the saïd William Stone, as such false traitor as aforesaid, during the saïd war, to wit, on the saïd first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, well knowing the saïd William Jackson traitorously to have come to and landed in this kingdom for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our saïd lord the king were or were not well-affected to our saïd lord the king and his government, and were or were not likely to join with and assist the forces of the saïd persons exercising the powers of government in France, and being enemies of our saïd lord the king as aforesaid, in case an hostile invasion of this kingdom should be made by them for the prosecution of the saïd war against our saïd lord the king, and of sending and causing to be sent such intelligence and information to the saïd persons exercising the powers of government in France, and being enemies of our saïd lord the king as aforesaid, for the aid, assistance, direction, and instruction of the saïd enemies of our saïd lord the king in their conduct and prosecution of the saïd war against our saïd lord the king, did with force and arms maliciously and traitorously receive and treat with the saïd William Jackson, at Old Ford aforesaid, in the county of Middlesex aforesaid, for the aid, assistance, and direction of the saïd William Jackson, in the prosecution, performance, and execution of his traitorous purpose last-mentioned, and did then and there maliciously and traitorously treat, consult, and converse with, and did then and there maliciously and traitorously aid, comfort, abet, and assist the saïd William Jackson in, about, and concerning the prosecution, performance, and execution of his the saïd William Jackson's traitorous purpose last-mentioned: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the saïd William Stone as such false traitor as aforesaid, during the saïd war, to wit, on the saïd first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force

force and arms maliciously and traitorously did conspire, consult, consent, and agree with the said John Hurford Stone, William Jackson, and divers other false traitors whose names are to the said jurors unknown, to collect and obtain, and cause to be collected and obtained information and intelligence within this kingdom and the kingdom of Ireland, whether any and what part of the subjects of our said lord the king were disposed to aid and assist the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in an hostile invasion of any and what part of this kingdom or of the kingdom of Ireland, for the prosecution of the said war against our said lord the king, and to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did enquire and cause to be enquired of divers persons in this kingdom, and did collect and obtain, and cause to be collected and obtained from such persons information and intelligence whether the subjects of our said lord the king were or were not well-affected to our said lord the king and his government, and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in case an hostile invasion should be by them made into this kingdom for the prosecution of the said war against our said lord the king, with intent to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king, in their conduct and prosecution of the said war against our said lord the king: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did obtain, and in his custody and possession did keep divers letters, notes, memorandums, and instructions in writing, containing

Enquiring, collecting, and obtaining information how, &c.

Obtaining and keeping notes, instructions, &c.

Sending instruc-
tions beyond sea.

To invade Ire-
land.

containing information and intelligence how the subjects of our said lord the king were affected to our said lord the king and his government, and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the prosecution of the said war against our said lord the king, with intent to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone as such false traitor aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did send and cause and procure to be sent from this kingdom, to be delivered in foreign parts beyond the seas, divers other letters, notes, memorandums, and instructions in writing, containing information and intelligence how the subjects of our said lord the king were affected to our said lord the king and his government, and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the prosecution of the said war against our said lord the king, with intent to communicate, notify, and reveal, and cause to be communicated, notified, and revealed such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction, and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did with the said William Jackson and divers other false traitors whose names are to the said jurors unknown, conspire, consult, consent, and agree to raise, levy, and make insurrection, rebellion, and war against our said lord the king within his kingdom of Ireland, and to cause, procure, and incite the said persons exercising the powers

powers of government in France, and being enemies of our said lord the king as aforesaid, to invade this kingdom of Ireland with ships and armed men, and to carry on the said war against our said lord the king within the kingdom of Ireland: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did conspire, consult, consent, and agree to and with the said William Jackson, and divers other false traitors whose names are to the said jurors unknown, that he the said William Jackson should go to and land in the said kingdom of Ireland, for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king of his kingdom of Ireland were or were not well-affected to our said lord the king and his government, and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, in case an hostile invasion of the said kingdom of Ireland should be made by them for the prosecution of the said war against our said lord the king, and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the aid, assistance, direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king, and did then and there maliciously and traitorously aid and assist the said William Jackson in going to and landing in the said kingdom of Ireland, for the prosecution, performance, and execution of the traitorous purpose last-mentioned, and which said William Jackson in pursuance of the said last-mentioned conspiracy, consultation, consent, and agreement heretofore, and during the said war, to wit, on the twenty-eighth day of March, in the thirty-fourth year aforesaid, did go to and land in the kingdom of Ireland, and did stay and continue there for a long time, to wit, for the space of one month for the prosecution, performance, and execution of the traitorous purpose last-mentioned: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone, as such false traitor as aforesaid, after the said William Jackson had gone to and landed in the said kingdom of Ireland for the traitorous purpose last-mentioned, and while the said William Jackson remained and continued in the said kingdom of Ireland for the traitorous purpose last-mentioned, and during the said war, to wit, on the fifth day of April, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex

Aiding, &c.
W. J. in going
to Ireland, &c.

Corresponding
with W. J.
there;

and supplying
him with mo-
ney.

Middlesex aforesaid, with force and arms maliciously and traitorously did correspond with, advise, counsel, aid, abet, and assist the said William Jackson in and about the prosecution, performance, and execution of the traitorous purpose last-mentioned: And in further prosecution, performance, and execution of his treason and traitorous adhering aforesaid, he the said William Stone, as such false traitor as aforesaid, during the said war, to wit, on the said first day of March, in the thirty-fourth year aforesaid, and on divers other days as well before as after that day, at Old Ford aforesaid, in the county of Middlesex aforesaid, with force and arms maliciously and traitorously did furnish and supply, and cause to be furnished and supplied, and aid and assist in furnishing and supplying the said William Jackson with divers sums of money, bills of exchange, and notes for payment of money, thereby to enable the said William Jackson to fulfil, perform, and execute his the said William Jackson's traitorous purposes before mentioned, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, contrary to the duty of the allegiance of him the said William Stone, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown, and dignity.

FELONIES.

For a rape upon
a girl eleven
years of age.

The jurors of our said lord the king upon their oath present, that Thomas Miller, late of D. in the said county of Kent, rope-maker, on the 31st day of July, in the twenty-second year of the reign of our sovereign lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, and with force and arms, at the parish of St. Lawrence in the county aforesaid, in and upon Mary May, spinster, of the parish of St. Lawrence aforesaid, in the county aforesaid, a virgin of the age of eleven years, then and there being in the peace of God and of our said lord the king, made an assault, and then and there the same Mary, against the will of the said Mary, feloniously ravished and carnally knew, against the peace of our said lord the now king, and against the form and statutes in such case made and provided, &c.

For coming arm-
ed with fire arms
into a royal fo-
rest with intent
to kill deer, and
assaulting the
keeper's assist-
ant,

The jurors for our sovereign lord the king, &c. that J. W. late of, &c. yeoman, being an ill designing and disorderly person, not regarding the laws and statutes of this realm, nor the pains and penalties therein contained, after the twenty-fourth of June which was in A. D. 1737, to wit, on the day of in the fourteenth year of the reign of our sovereign lord George the Third, with

with force and arms, in the ward of B. alias B. ward, being an extra-parochial place in the forest of Needwood, in the county of Stafford, he the said T. then and there being armed with fire arms and other offensive weapons, unlawfully did come, and then and there in the said ward, being an extra-parochial place within the forest of N. in the said county of S. aforesaid, (the said forest then and long before and still being the forest of our said sovereign lord the king, and also a forest wherein fallow deer on the said day of in the fourteenth year aforesaid, and for the space of forty years and more then last past, have been usually kept and still are usually kept, with an intent then and there unlawfully to kill and take away one fallow deer of our said lord the king, then and there being in the said ward, without the consent of our said lord the king, then and being owner thereof, or of the most noble T. W. duke of Devonshire, then being ranger of the said forest, or of the right honorable G. lord Vane, then keeper of the said ward called B. ward in the said forest, they the said duke and G. lord Vane, then and there being the persons chiefly entrusted with the custody of the said deer within the said ward, or of any other person who then was chiefly entrusted with the keeping of the said ward, or with the custody of the said deer then being in the said ward, and being also then and there so armed as aforesaid, did then and there unlawfully beat and wound the said E. P. in the due execution of his said office, and then and there did other injuries to the said E. P. to the great damage of the said E. P. in contempt of our said lord the king and his laws, to the evil example, &c. against the form of the statute, &c. and against the peace, &c.: And the jurors, &c. that the said T. W. aforesaid, *i. e.* of the said of in the fourteenth year aforesaid, being then and there armed with fire arms and other offensive weapons, with force and arms unlawfully did come into the chase of N. in a certain part thereof called the ward of B. alias B. ward, and the said ward last mentioned then and there being an extra-parochial place within the said chase, and the said chase then and there being the chase of our said lord the king, and a place wherein deer were usually kept, with an intent then and there unlawfully to kill and take away one fallow deer, then and there being in the said last-mentioned ward, and being also then and there so armed as aforesaid, did then and there with force and arms unlawfully make an assault and affray upon the said E. P. then and there being one of the assistants of the said lord V. then and there being the keeper of the said last-mentioned ward where deer then were usually kept, then and there being in the said last-mentioned ward in the due execution of his the said E. P.'s office, and in the peace of God and our said lord the king; and the said T. W. being also then and there so armed as aforesaid, did then and there unlawfully beat and wound the said E. P. in the due execution of his said office, and then and there did other injuries to the said E. P. to the great damage of the said E. P. in contempt, &c. to the evil example, &c. and against the form of the

Second count,
laying it only to
be the king's
park.

* It seems to have been decided that this is only a misdemeanor. Rex v. Davis, Leach's C. L. 391.

Third count.

statute, &c. and against the peace, &c.: And the jurors, &c. that the said T. W. aforesaid (*i. e.*), in the said of in the fourteenth year aforesaid, being then and there armed with fire arms, unlawfully did come into a certain other ward of our said lord the king, lying within and part of the said forest of our said lord the king, called the Forest, in which said last-mentioned ward and forest deer were then usually kept, with an intent then there unlawfully to kill and take away one fallow deer then and there being in the said last-mentioned ward and forest, and did then and there unlawfully beat and wound the said E. P. then and there being one of the assistants of the said lord V. he the said lord V. then and there being the keeper of the said last-mentioned ward where deer were usually kept, and then and there being in the said last-mentioned ward in the due execution of his the said E. P.'s office, to the great damage, &c. and against the peace, &c.: And the jurors, &c. that the said T. W. aforesaid,

Fourth count.

afterwards, *i. e.* on the said of in the fourteenth year aforesaid, with force and arms, and armed with fire arms and other offensive weapons, unlawfully did come into the said forest of our said lord the king called the forest of N. in the said county of S. the same then and there being an extra-parochial place, and a place where deer were then and there usually kept, with an intent then and there unlawfully to kill and take away one fallow deer then and there being in the said forest, and did then and there unlawfully beat and wound the said E. P. then and there being, &c. (*ut supra*) he the said lord V. then and there being one of the keepers of the said forest where deer then and there were usually kept, and then and there being in the said forest in the due execution of his the said E. P.'s office, to the great damage, &c. and against the peace of our said lord the king, his crown and dignity.

This is a misdemeanor, and not a felony. See Leach's C. L. 391. Rex v. Davis.

Indictment for forging a letter of attorney with intent to defraud one R. H.

SURRY, to wit. The jurors of our lord the king upon their oath present, that John Mackee, late of the parish of in the said county of S. victualler, in the year of Our Lord 1729, to wit, on the 8th day of June in the 31st year of the reign of our sovereign lord George the Third, of Great Britain, France, and Ireland, king, defender of the faith, and with force and arms at the parish aforesaid, in the county aforesaid, feloniously did falsely make, forge, and counterfeit, and cause and procure to be falsely made, forged, and counterfeited, and did willingly act and assist in the false making, forging, and counterfeiting a certain deed with a mark thereunto set, purporting to be the mark of one Charles Clegg, which said deed purported to be a letter of attorney, and to bear date the 8th day of June, A. D. 1791, and to have been sealed and delivered by the said Charles Clegg; the tenor of said false, forged, and counterfeited deed is as follows, that is to say: Know all men by these presents, that I Charles Clegg, of Bermondsey, in the county of S. hatter, have made, ordained, constituted,

Letter of attorney set our verbatim.

tuted, and appointed, and by these presents do make, ordain, constitute, and appoint Alexander Mackintosh, of Spital Square, in the county of Middlesex, victualler, my true and lawful attorney, for me, and in my name, and for my use to sell, assign, transfer, and set over all and singular leases, goods, chattels, and effects of what nature soever now belonging to me, to such person or persons as shall or may be willing to purchase the same, and acquittance for the monies to arise by sale thereof, for me and in my name to make, seal, and deliver, and also to ask, demand, and receive of and from all persons who are or may become indebted to me, all such sum and sums of money, and upon non-payment thereof the said persons, and every of them, their executors or administrators, for me and in my name to sue, arrest, imprison, implead, and prosecute for the same, and upon such suit to proceed to judgment and execution; and thereupon the said persons and every of them, their executors and administrators, in prison to hold and keep until payment thereof be made, with all costs and damages sustained and to be sustained by occasion of the detaining of the same, and upon payment thereof the said persons and every of them, their executors and administrators, forth of prison to discharge, and acquittances for the same or any part thereof in my name to make, seal, and deliver, and also to do, perform, and execute all and every other lawful and reasonable acts and things whatsoever, both for obtaining and discharging of the same as shall be needful to be done, giving and by these presents granting unto my said attorney my full and absolute power in the premises, ratifying and holding firm all and whatsoever my said attorney shall lawfully do or cause to be done in or about the premises by virtue of these presents, in witness whereof I have hereunto set my hand and seal the 8th day of June, in the thirty-first year of the reign of our sovereign lord George the Third, of Great Britain, France, and Ireland, king, defender of the faith, and in the year of Our Lord 1791: The mark + of Charles Clegg: Sealed and delivered (being first duly stamped) in the presence of William Webb, attorney, High Street, Southwark, with intention to defraud Richard Hare, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the the said John Mackee aforesaid, to wit, on the eighth day of June, in the thirty-first year of the reign of our lord the now king, with force and arms, at the parish aforesaid, in the county aforesaid, feloniously did utter and publish as true a certain false, forged, and counterfeited deed, with certain mark thereunto set, purporting to be the mark of one Charles Clegg, which said deed purported to be a letter of attorney, and to bear date the eighth day of June, in the year of Our Lord 1791, and to have been sealed and delivered by the said Charles Clegg, the tenor of which said false, forged, and counterfeited deed is as follows, that is to say (here recite the letter of attorney as in first count), with intention to defraud Richard Hare

Second count,
for uttering and
publishing as
true a forged
letter of attorney,
knowing
the same to have
been forged, with
intent to defraud
R. H.

Third count.
Fourth count.

(he the said John Mackee at the time of his so uttering and publishing the said last-mentioned false, forged, and counterfeited deed, then and there well knowing the same deed to be false, forged, and counterfeited), against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [For forging the letter of attorney with intent to defraud *the Creditors*. For uttering a forged letter of attorney with intent to defraud *the Creditors*.]

Indictment
upon the stat.
9. Geo. 1. c.
22. f. 1. for
killing and
maiming cattle.

First count,
killing a mare
of A. B.

Second count,
maiming and
wounding ditto.

3d count, kill-
ing a gelding of
ditto.

WILTSHIRE. The jurors for our sovereign lord the king upon their oath present, that Curtis King, late Marbro, in the County of Wilts, labourer, after the first June, A. D. 1723, to wit, on the fourteenth of August, in the eleventh year of the reign of our lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. maliciously contriving and intending to injure one Charles Bill, gentleman, with force and arms, &c. at the parish of Preshall in the county of Wilts aforesaid, did unlawfully, maliciously, and feloniously kill a certain mare of the said Charles Bill, of the value of ten pounds, then and there being and found, to the great damage of the said Charles Bill, against the peace of our lord the king, his crown and dignity, and against the form and statute in such case made and provided: And the jurors aforesaid, upon their oath aforesaid, further present, that the said Curtis King and Robert Jeffries, after the said first June A. D. 1723, to wit, on the said fourteenth August, in the said eleventh year of the reign of our said lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. maliciously contriving and intending to injure the said Charles Bill, with force and arms, at the parish of Preshall aforesaid, did unlawfully, maliciously, and feloniously maim and wound a certain mare of the said Charles Bill, of the value of ten pounds, then and there being and found, to the great damage of the said Charles Bill, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided: And the jurors aforesaid, upon their oath aforesaid, further present, that the said Curtis King, and Robert Jeffrys, after the said first June, in the said year of our lord 1723, on the said fourteenth August, in the said eleventh year of the reign of our said lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. maliciously contriving and intending to injure one John Sweeper, with force and arms, at the parish of Prespute, smith, did wilfully, maliciously, and feloniously maim and wound a certain gelding of the said John Sweeper of the value of five pounds then and there being and found, to the great damage of the said John Sweeper, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in that case made and provided.

BE it remembered, that at the session of oyer and terminer of our sovereign lord the king, holden at Beerfarumin, in and for the county of Wilts, on Saturday the seventh of March, in the twelfth year of the reign of our sovereign lord George the Third, king of Great Britain, &c. before the honourable sir William Blackstone, knight, one of the justices of his majesty's court of common pleas, the honourable sir William Henry Ashurst, knight, one of the justices of his majesty's court of king's bench, and other fellow justices of our lord the king, assigned by letters patent of our lord the king under his great seal of Great Britain, to the same justices above-mentioned and others, and to any two of them directed, or whom one of them the said William Blackstone and Sir William Henry Ashurst, amongst others in the same letters patent named, our said lord the king willed to be one, to enquire more fully the truth by the oath of good and lawful men of the said county of Wilts, and by such ways, means, and methods, by which they should or might better know, as well within liberty as without, by whom the truth of the matter might be better known and enquired into, of all treasons, insurrections, rebellions, counterfeiting, clippings, washings, false coinings, and other falsities of the money of Great Britain or dominions whatsoever, and of all murders, felonies, manslaughter, killings, burglaries, rapes of women, unlawful meetings, and conventions, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, deceits, and all other evil doings, offences, and injuries whatsoever, and also the of them within the county aforesaid, as well within liberties as without, by whomsoever, and in what manner, and all other articles and circumstances concerning the same premises, and every of them, or any of them, in any manner whatsoever, and the said treasons and other the premises, according to the laws and customs of England, for this time to hear and determine, by the oath of sir Alexander Powell, knight, the honourable sir Charles Howard, Instam Heedlestone Jervaise, William Coynham, Thomas Phipps, Henry Wyndham, Nicholas Elliot, Henry Earle, Paul Newman, John Cooper, John Thorpe, Edward Rudge, Robert , John Fuller, William Benson Earl, Richard Southby, William Hayter, Thomas Hussey, William junior, Thomas Moore, William Bennett, Thomas Hale Phipps, and John , good and lawful men of the county aforesaid impannelled, duly charged to enquire for our said lord the king for the body of the said county, it was presented that the bill of indictment to this schedule annexed is a true bill.

Caption of oyer
and terminer
and general de-
livery at the as-
sises.

CITY AND COUNTY OF BRISTOL. The jurors for our sovereign lord the king upon their oath present, that Charles Francis, late of the parish of St. Stephen, in the city of Bristol and county of the said city, mariner, and Benjamin Powers, late of the same parish, city, and county, labourer, after the twenty-

Indictment on
26. Geo. 2. c.
19. for plunder-
ing a ship
wrecked, &c.

N. B. they were ninth September, A. D. 1753, on the 4th November, in the capitally convicted at the Bristol assizes, April, 1773, on this indictment.

Felony taking goods and chattels of persons unknown, and the cables of the ship, at the parish of S. in B.

Second count, at the parish of A. in the county of Monmouth, being part adjoining county, according to s. 8.

Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. with force and arms, at the parish aforesaid, in the city aforesaid, and county of the same city, ten casks of butter of the value of pounds, from and belonging to a certain vessel called the Hopewell, being then and there wrecked and stranded, of certain persons subjects of our said lord the king, whose names are as yet unknown to the jurors aforesaid, and also two cables of the value of being then and there part of the furniture, tackle, and apparel of the said vessel as aforesaid, being then and there wrecked and stranded, did feloniously plunder, steal, and take away, against the peace of our sovereign lord the king, his crown and dignity, and against the form of the statute in such case made and provided; And the jurors aforesaid, upon their oath aforesaid, further present, that the said C. F. and B. P. after the said twenty-ninth September, A. D. 1753, on the said fourth November, in the said thirteenth year of the reign of our said sovereign lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, &c. with force and arms, at the parish of A, in the county of Monmouth, being next adjoining to the said county of the said city of Bristol, 100 casks of butter of the value of pounds, from and belonging to a certain vessel called the Hopewell, being then and there wrecked and stranded, of certain persons subjects of our said lord the king (whose names are yet unknown to the jurors aforesaid), and also two other cables of the value of pounds, being then and there part of the furniture, tackle, and apparel of the said last-mentioned vessel, so as aforesaid being then and there wrecked and stranded, did feloniously plunder, steal, and take away, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case, &c. &c.

Indictment on 26. Geo. 3. s. 8. for the better preserving clandestine marriages, felony, fourteen years transportation. Marriage void for marrying without licence or publication of banns.

MIDDLESEX. The jurors of our sovereign lord the king on their oath present, that John Wilkinson, late of the Savoy, in the county of Middlesex, clerk, after the 25th March, A. D. 1754, to wit, on sixth October, in the eighteenth year of the reign of his present majesty, with force and arms at the Savoy aforesaid, in the county aforesaid, did unlawfully, knowingly, willingly, and feloniously solemnize matrimony between Thomas Brune, late of Christ Church, in the county of Surry, waterman (then a bachelor), and one Mary Clark (then a single woman), without publication of banns of marriage in that behalf, and without any licence of marriage in that behalf being first had and obtained from any person or persons having an authority to grant the same, in contempt, &c. against the form of the statute, &c. and also against the peace of our lord the king, &c.

MISDEMEANORS.

MIDDLESEX. The jurors for our lord the king upon their oath present, that Richard Chard, late of the parish of Saint Anne, within the liberty of Westminster, in the county of Middlesex, lamplighter, John Chard, late of the same, lamplighter, J. B. late, &c. lamplighter, &c. &c. &c. together with divers other persons whose names to the jurors aforelaid are as yet unknown, on the fourth day of October, in the thirty-third year of the reign of our sovereign lord George the Third, now king of Great Britain, &c. being workmen and journeymen in the art, mystery, and manual occupation of a lamplighter, and not being content to work and labour in that art and mystery at the usual rates and prices for which they and other workmen and journeymen were wont and accustomed to work, but falsely and fraudulently conspiring and combining unjustly and oppressively to increase and augment the wages of themselves and other workmen and journeymen in the said art, mystery, and manual occupation, and unjustly to exact and extort great sums of money for their labour and hire in their said art, mystery, and manual occupation, from their masters who employ them therein, on the said fourth day of October, in the said thirty-third year of the reign of our said lord the now king, at the parish aforelaid, in the county aforelaid, unlawfully did assemble and meet together, and so being then and there assembled and met, did then and there unlawfully, unjustly, and corruptly conspire, combine, confederate, and agree together among themselves, that none of them the said Richard Chard, John Chard, John Bicknell, &c. &c. and of the said other persons whose names are unknown, after the said fourth day of October, in the year aforelaid, would work at any lower price or rate than twenty-one shillings a week for trimming, cleansing, and lighting of lamps, the same being four shillings a week increase of wages more than the sum of seventeen shillings a week, for which workmen and journeymen lamplighters were then usually wont and accustomed to work, to the great damage and oppression not only of their masters employing them in the said art, mystery, and manual occupation, but also of divers others of his majesty's liege subjects, to the evil example of all others in the like case offending, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the jurors aforelaid, upon their oath aforelaid, do further present, that the said Richard Chard, &c. &c. being workmen and labourers in the art, work, and business of a lamplighter, and not being content to work and labour in the said art, work, and business, at the prices usually paid to such workmen, but unlawfully and wickedly contriving, devising, and intending to raise and increase the said prices and rates, on the said fourth day of October in the year aforelaid, at the parish aforelaid, in the county aforelaid, unlawfully did assemble and meet together, and so being as-

Indictment against journey-men lamplighters for conspiracy to raise wages from 17s. to 21. 10.

Second count, to work only at a certain rate, and no lower.

sembled and met together as last aforesaid, did then and there unlawfully, unjustly, wickedly, and corruptly conspire, covenant, and promise together, and make oath that none of them the said Richard Chard, &c. &c. after the said fourth day of October in the year aforesaid, would do any work in their said art, work, and business of lamplighters but at a certain price or rate (that is to say), at no lower or less price or rate than twenty-one shillings a week, the same being a greater price and rate than seventeen shillings a week usually paid to such workmen and labourers in the said art, work, and business of a lamplighter, to the great damage and oppression not only of their master's employing them in the said art, work, and business, but also of divers others his majesty's liege subjects, to the evil example of all others in the like case offending, in contempt of our said lord the king and his laws, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided: And the jurors aforesaid, upon their oath aforesaid, do further present that the said Richard Chard, &c. &c. and the said other persons whose names are unknown, being workmen and journeymen in the art, mystery, and manual occupation of a lamplighter as aforesaid, and not being content to work and labour in that art, mystery, and manual occupation, at the usual rates and prices accustomed to be paid for such work, but unlawfully and wickedly contriving and intending to raise and increase the prices and rates for the same, afterwards (to wit), on the said fourth day of October, and on divers other days and times between that day and the day of the taking of this inquisition in the year aforesaid, at the parish aforesaid, in the county aforesaid, unlawfully did assemble and meet together, and so being assembled and met as last aforesaid, did then and on the said other days and times there unlawfully, unjustly, and corruptly conspire, combine, confederate, and agree together among themselves, that none of the said conspirators, after the said fourth day of October in the year aforesaid, would work at any lower price or rate than two shillings a score for each and every score of lamps which they, any, or either of them might trim, cleanse, and light, as such lamplighters as aforesaid; and also that none of the said conspirators would agree to trim, cleanse, and light for their said masters any less number of lamps than would at the rate aforesaid amount to the sum of one guinea a week, to the great damage and oppression not only of their masters employing them in the said art, mystery, and manual occupation, but also of divers others of his majesty's liege subjects, to the evil example of all others in the like case offending, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity:

Third count, at a certain rate of two shillings per score of lamps, nor to light less than would amount to twenty-one shillings.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Richard Chard, &c. &c. and the said other persons whose names are unknown, being workmen in the art, work, and business of a lamplighter, and not being content to work and labour in the said art, work, and business, at their usual prices

prices and rates accustomed to be paid for such work, but unlawfully and wickedly contriving, devising, and intending to raise and increase the prices and rates for the same, afterwards, to wit, on the said fourth day of October, in the year aforesaid, and on the said other days and times as aforesaid, at the parish aforesaid, in the county aforesaid, unlawfully did assemble and meet together, and so being met and assembled together as last aforesaid, did then and on the said other days and times there unlawfully, unjustly, wickedly, and corruptly conspire, covenant, and promise together, that none of the said conspirators last aforesaid should, after the said fourth day of October in the year aforesaid, do their work as lamplighters but at a certain price or rate, that is to say, at no lower or less price or rate than two shillings a score for each and every score of lamps which they, any, or either of them should trim, cleanse, and light as such lamplighters as aforesaid, and that none of the said conspirators, should trim, cleanse, and light any less number of lamps than would at the rate last aforesaid amount to the sum of one guinea a week, to the great damage and oppression not only of their masters employing them in the said art, work, and business, but also of divers others of his majesty's liege subjects, to the evil example of all others in the like case offending, in contempt of our said lord the king and his laws, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Richard Chard, &c. &c. being workmen and journeymen in the art, mystery, and manual occupation of a lamplighter as aforesaid, and not being content to work and labour in that art, mystery, and manual occupation at the usual rates and prices accustomed to be paid for such work, but unlawfully and wickedly contriving and intending to raise and increase the prices and rates for the same, afterwards, to wit, on the said fourth day of October in the year aforesaid, and on divers other days and times as aforesaid, at the parish aforesaid, in the county aforesaid, did, together with divers other workmen and journeymen in the said art, mystery, and manual occupation of a lamplighter as aforesaid, unlawfully assemble and meet together, and so being assembled and met as last aforesaid, did then and on the said other days and times there unlawfully, unjustly, and corruptly conspire, combine, confederate, and agree together among themselves that none of them the said Richard Chard, &c. &c. after the said fourth day of October in the year aforesaid, would do any work as a lamplighter unless the master who should employ them would give them each not less than ten score and an half of lamps to trim, cleanse, and light on each day in every week, and pay them for the same at and after the rate or price of two shillings a score, the same amounting to twenty-one shillings a week, and being four shillings a week increase of wages more than than the sum of seventeen shillings a week, for which they and other workmen and journeymen lamplighters then were usually wont

Fourth count,
would not work,
&c. light ten
score and a half
of lamps at two
shillings per
score, so as to
amount to
twenty-one
shillings per
week.

Fifth count,
would not do
their work, &c.
unless, &c.

wont and accustomed to be paid for such their work, to the great damage and oppression not only of their masters employing them in the said art, mystery, and manual occupation, but also of divers others of his majesty's liege subjects, to the evil example of all others in the like case offending, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Richard Chard, &c. &c. being workmen and labourers in the art, work, and business of a lamplighter, and not being content to work and labour in the said art, work, and business, at the usual prices and rates paid for such work, but unlawfully and wickedly contriving, devising, and intending to raise and increase the prices and rates for the same, afterwards, to wit, on the said fourth day of October, and on the said other days and times as aforesaid, in the year aforesaid, at the parish aforesaid, in the county aforesaid, together with divers other workmen in the said art and mystery, unlawfully did assemble and meet together, and so being assembled and met together as last aforesaid, did then and on the said other days and times there unlawfully, unjustly, wickedly, and corruptly conspire, covenant, and promise together that none of them the said Richard Chard, &c. &c. would, after the said fourth day of October in the year aforesaid, do their work as such lamplighters as aforesaid, unless their respective masters would pay them at a certain price or rate, that is to say, unless their said respective masters would pay them respectively at and after the rate of two shillings a score for each and every score of lamps which they and each of them respectively should trim, cleanse, and light, and would also give, find, and allow them, and every of them respectively, ten score and a half of lamps to trim, cleanse, and light on each and every day of the week, so that the rate or price of their respective weekly wages should and might amount to twenty-one shillings a week, the said last-mentioned rate or price being four shillings a week increase of wages more than the sum of seventeen shillings a week, for which they and other workmen and journeymen lamplighters were respectively usually wont and accustomed to be paid for such their work, to the great damage and oppression not only of their masters employing them in the said art, work, and business, but also of divers others his majesty's liege subjects, to the evil example of all others in like case offending, in contempt of our said lord the king and his laws, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided.

Indictment for
conspiring to get
prosecutor's ac-

MIDDLESEX. The jurors for our lord the king upon their oath present, that Moses Delmont, late of the parish of Saint Margaret, by falsely representing that the drawer was a person of good credit, and that defendants knew a gentleman of character who would discount it for prosecutor, and thereby got possession of the bill, which prosecutor was obliged to pay, and cheating prosecutor of the amount of the bill.

garet,

garet, Westminster, in the county of Middlesex, yeoman, otherwise called George Dell, late of the same, yeoman, John Knight, late of the same, yeoman, and William Bell, late of the same, yeoman, being evil and wicked disposed persons of ill name and fame, and of dishonest conversation, and craftily and subtilly devising, designing, and intending the honest liege subjects of our said lord the king of their monies by divers false arts, colours, and pretences, to cheat, deceive, and defraud, on the fourth day of August, in the thirtieth year of the reign of our sovereign lord George the Third, now king of Great Britain, &c. with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully did conspire, combine, confederate, and agree together among themselves that he the said Moses Delmonte, otherwise George Dell, should pretend that he had a friend, meaning the said John Knight, who was a person of good credit and reputation, and could discount bills of exchange with good acceptances thereon, to be drawn by the said William Bell, who was a person of good credit, property, and reputation, and lived in a reputable house in Devonshire-street, Queen-square, payable to the order of the said William Bell: And the jurors aforesaid, upon their oath do further present, that in pursuance of the aforesaid conspiracy, combination, confederacy, and agreement between them so as before had, he the said Moses Delmonte, otherwise George Dell, afterwards, to wit, on the said fourth day of August in the year aforesaid, at the parish aforesaid, in the county aforesaid, did falsely, fraudulently, and deceitfully pretend to one Alexander Bisset, esquire, that he the said Moses Delmonte, otherwise George Dell, could get the said John Knight to discount any bills to any amount whatsoever, upon the acceptance of him the said Alexander Bisset, and the said John Knight did then and there also pretend, assert, and affirm, that the said William Bell was a person of good credit, property, and reputation, and did then and there propose that the said William Bell should draw a bill payable to him or his the said William Bell's order on the said Alexander Bisset, to be by him accepted: And the jurors aforesaid, upon their oath aforesaid, do further present, that in further pursuance of the aforesaid conspiracy, combination, confederacy, and agreement, by and between the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, so as aforesaid before had, they the said Moses Delmonte, otherwise George Dell, and John Knight, did then and there produce a certain inland bill of exchange bearing date the fourth day of August 1790, drawn by and under the hand of the said William Bell on him the said Alexander Bisset, payable to the order of the said William Bell three months after date, for the sum of ninety-six pounds for value received, and did then and there assert and affirm, that on his the said Alexander Bisset's accepting the same bill, he the said John Knight would get the same discounted the next day, and would then bring him the said Alexander Bisset the money for the same, by means of which said false pretences, in pursuance of the
aforesaid

aforesaid conspiracy, combination, confederacy, and agreement, they the said Moses Delmonte, otherwise George Dell, and John Knight, afterwards, to wit, on the fourth day of August, in the said thirtieth year of our said lord the king, did unlawfully, falsely, fraudulently, and deceitfully obtain, acquire, and get into their hands and possession, of and from the said Alexander Bisset, a certain acceptance on the said bill of exchange for the said sum of ninety-six pounds, with intent then and there to cheat and defraud him the said Alexander Bisset of the said sum of ninety-six pounds, so secured and made payable by the said Alexander Bisset by virtue of his acceptance on the said bill of exchange, whereas in truth and in fact they the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, were not persons of good credit, character, and reputation, nor was any or either of them a person of good credit, property, or reputation; and whereas in truth and in fact the said William Bell was not a person of property, credit, and reputation, as the said Moses Delmonte, otherwise George Dell, had so as aforesaid represented him to be to the said Alexander Bisset; and whereas in truth and in fact he the said John Knight did not get the said bill discounted the next day, and then bring him the said Alexander Bisset the money for the same as he undertook to do, but on the contrary withdrew himself with the said bill and acceptance thereon as aforesaid, and the said Alexander Bisset was afterwards obliged to pay and did pay the said sum of ninety-six pounds, by virtue of his acceptance as aforesaid, without receiving any valuable consideration for the same from the said John Knight or William Bell whatsoever; and so the jurors aforesaid, upon their oath do say, that the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, in pursuance of the aforesaid conspiracy, and in the manner and by the means aforesaid, him the said Alexander Bisset of the said sum of ninety-six pounds lawful money of Great Britain, of the proper monies of the said Alexander Bisset, did then and there, to wit, on the said seventh day of November, in the said thirty-first year of the reign of our said lord the king, at the parish aforesaid, in the county aforesaid, unlawfully, falsely, fraudulently, and deceitfully cheat, deceive, and defraud, to the great damage of the said Alexander Bisset, to the manifest prejudice of credit, to the evil and pernicious example of all others, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the jurors for our said lord the king upon their oath further present, that the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, being such evil and wicked disposed persons of ill name and fame, and of dishonest conversation, and craftily and subtilly devising, designing, and intending the honest liege subjects of our said lord the king of their monies by divers false arts, colours, and pretences, to cheat, deceive, and defraud, afterwards, to wit, on the said fourth day of August, in the said thirtieth year of the reign of our said lord

Second count.

lord the now king, with force and arms at the parish aforesaid, in the county aforesaid, unlawfully did conspire, combine, confederate, and agree together among themselves to cheat and defraud the said Alexander Bisset, and in pursuance of such conspiracy, combination, confederacy, and agreement, he the said Moses Delmonte, otherwise George Dell, did falsely and unlawfully pretend that he had a friend, meaning the said John Knight, who was a person of good credit and reputation, and could discount bills of exchange of good acceptances thereon, to be drawn by the said William Bell, who was a person of good credit, property, and reputation, for any sum or sums of money whatsoever : And the jurors aforesaid, upon their oath aforesaid, do further present, that in pursuance of the aforesaid conspiracy, combination, confederacy, and agreement between them so as aforesaid had, he the said Moses Delmonte, otherwise George Dell, afterwards, to wit, on the said fourth day of August, in the said thirtieth year of our lord the now king, at the parish aforesaid, in the county aforesaid, did falsely, fraudulently, and deceitfully pretend to the said Alexander Bisset, that he the said Moses Delmonte, otherwise George Dell, could get the said John Knight to discount any bills to any amount whatsoever upon the acceptance of him the said Alexander Bisset, and the said John Knight did then and there also pretend, assert, and affirm that the said William Bell was a person of good credit, property, and reputation, and did then and there propose that the said William Bell should draw a bill payable to his the said William Bell's order on the said Alexander Bisset, to be by him accepted : And the jurors aforesaid, upon their oath aforesaid, do further present, that in further pursuance of the aforesaid conspiracy, combination, confederacy, and agreement by and between them the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, so as aforesaid before had, they the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, did then and there produce a certain inland bill of exchange, bearing date the said fourth day of August 1790, drawn by and under the hand of the said William Bell, on him the said Alexander Bisset, payable to the said William Bell's order three months after date, for the sum of ninety-six pounds for value received, and did then and there assert and affirm that on his the said Alexander Bisset's accepting the same bill, he the said John Knight would get the same discounted the next day, and would then bring him the said Alexander Bisset the money for the same, by means of which said false pretences in pursuance of the aforesaid conspiracy, combination, confederacy, and agreement, they the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, afterwards, to wit, on the said fourth day of August, in the thirtieth year of the reign of our said lord the now king, did unlawfully, falsely, fraudulently, and deceitfully obtain, acquire, and get into their hands and possession, of and from the said Alexander Bisset, a certain acceptance on a bill of exchange for the said sum of ninety-

in further pursuance that the drawer of the bill was a man of reputation, and for whom they could discount any sum of money ; when the bill became due prosecutor obliged to give security to the amount.

Third count,
for the fraud in
getting the ac-
ceptance of the
prosecutor into
their possession,
receiving the
money, and
cheating him of
it.

fix pounds, with intent then and there to cheat and defraud him the said Alexander Bisset of the said sum of ninety-six pounds so secured and made payable by the said Alexander Bisset by virtue of his acceptance on the said last-mentioned bill of exchange, whereas in truth and in fact they the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell were not persons of good credit, character, and reputation, nor was any or either of them a person of good credit, property, or reputation; and whereas in truth and in fact the said William Bell was not a person of property, credit, and reputation, as the said Moses Delmonte, otherwise George Dell, had so as aforesaid represented him to be to the said Alexander Bisset; and whereas in truth and in fact he the said John Knight did not get the said bill discounted the next day, and then bring him the said Alexander Bisset the money for the same, as he undertook to do, but on the contrary withdrew himself with the said bill and acceptance thereon as aforesaid, and the said Alexander Bisset was afterwards obliged to find security, and did find security for the said sum of ninety-six pounds, by virtue of his acceptance as aforesaid, without receiving any valuable consideration for such acceptance from the said John Knight, or William Bell, or any other person whomsoever; and so the jurors aforesaid, upon their oath do say, that the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, in pursuance of the aforesaid conspiracy, and in the manner and by the means aforesaid, did then and there unlawfully, falsely, fraudulently, and deceitfully cheat, deceive, and defraud, to the great damage of the said Alexander Bisset, to the manifest prejudice of credit, to the evil and pernicious example of all others, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, being such evil and wicked disposed persons as aforesaid, and craftily and subtilly devising, designing, and intending the liege subjects of our said lord the king of their monies by divers false arts, colours, and pretences to cheat, deceive, and defraud, on the said fourth day of August, in the thirtieth year of the reign of our said lord the now king, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully, fraudulently, deceitfully, and injuriously did acquire and get into their hands a certain bill of exchange accepted by the said Alexander Bisset, bearing date the said fourth day of August, drawn by and under the hand of the said William Bell on him the said Alexander Bisset, payable to the said William Bell's order three months after date, for the sum of ninety-six pounds for value received, and which said accepted bill of exchange was of the value of ninety-six pounds, with intent then and there to cheat and defraud him the said Alexander Bisset of the said accepted bill of exchange,

exchange, and of the said sum of ninety-six pounds so secured and made payable by the said accepted bill of exchange: And so the jurors aforesaid, upon their oath do say, that the said Moses Delmonte, otherwise George Dell, John Knight, and William Bell, in manner and by the means aforesaid, him the said Alexander Bisset, of the said accepted bill of exchange of the value of ninety-six pounds, did then and there, to wit, on the said fourth day of January, in the thirty-first year of the reign of our said lord the now king, at the parish aforesaid, in the county aforesaid, unlawfully, falsely, fraudulently, and deceitfully cheat, deceive, and defraud, to the great damage of the said Alexander Bisset, to the evil and pernicious example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

SURRY. The jurors for our lord the king upon their oath present, that A. Abrahams, late of _____, in the county of Surry, labourer, not regarding the laws and customs of this realm, nor fearing the penalties therein contained, after the first day of May, in the year of Our Lord 1711, to wit, on the eighteenth day of September, in the thirty-second year of the reign of his present majesty king George the Third, at the parish of Saint George, in the borough of Southwark, in the county of Surry, with force and arms, by fraud, shift, cozenage, circumvention, deceit, unlawful device, and ill practice, to wit, by one T. T. then and there playing at a certain game at cards called cribbage, with one T. B. losing to the said T. B. in the said game intentionally, wilfully, and fraudulently, and with the knowledge of the said A. A. did win, obtain, and acquire to himself a large sum of money, to wit, the sum of ten pounds ten shillings of lawful money of Great Britain, of the monies of one James Birt, of and from the said T. B. in and by betting on the side of the said T. B. against the said T. T. so playing with the said T. T. at such game as aforesaid, to the great damage of the said T. B. to the evil and pernicious example of all others in the like case offending, against the form of the statute in such made and provided, and against the peace of our said lord the king, his crown, and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said A. A. not regarding the laws and statutes of this realm, nor fearing the penalties therein contained, after the first day of May, in the year of Our Lord 1711, to wit, on the eighteenth day of September, in the thirty-second year of the reign aforesaid, at the parish aforesaid, in the county aforesaid, with force and arms, &c. by fraud, shift, cozenage, circumvention, deceit, unlawful device, and ill practice, did win, obtain, and acquire to himself a certain other large sum of money, to wit, the sum of ten pounds ten shillings of like lawful money of the monies of the said James Birt

Indictment at the quarter sessions for fraudulently winning money by betting at cards, and for winning more than ten pounds at one time and sitting, contra form. just. 9 Ann, c. 14.

Birt of and from the said T. B. in and by betting with the said T. B. on the side of the said T. T. and T. B. then and there playing at a certain game at cards called cribbage, to the great damage, &c. to the evil and pernicious example, &c. against the form of the statute, and against the peace of our said lord the king, his crown and dignity: And the jurors, &c. (as before) at, &c. aforesaid, with force and arms did by betting on the hands of the said T. T. and T. B. then and there playing at a certain game at cards called cribbage, win at one time and sitting above the sum of ten pounds, that is to say, the sum of ten pounds ten shillings of like lawful money of and from the said T. B. to the great damage, &c. to the evil and pernicious example, &c. &c. against the peace, &c.

T. BARROW.

London. At the General Session for the peace of our lord the king, holden for the city of London, at the Guildhall within the said city, on Monday, the first day of June, in the twenty-ninth year of the reign of our sovereign lord George the Third, king of Great Britain, &c.

Indictment for
keeping a com-
mon gaming-
house.

LONDON, to wit. The jurors for our lord the king upon their oath present, that S. F. late of London, yeoman, being an evil-disposed person, and not minding to gain his livelihood by honest labour, on the first day of May, in the twenty-ninth year of the reign of our sovereign lord George the Third, king of Great Britain, &c. and on divers other days and times between that day and the first day of December, in the twenty-ninth year aforesaid, with force and arms, at London aforesaid, that is to say, at the parish of Saint M. A. in the ward of C. in London aforesaid, unlawfully and injuriously did keep and maintain a certain common gaming-house there situate, for lucre and gain, and in the said common gaming-house, on the said first day of May, in the twenty-ninth year aforesaid, and on the said other days and times there unlawfully and wilfully did cause and procure divers idle and evil disposed persons to frequent and come to play together at a certain unlawful game called billiards, and in the said common gaming-house, on the said first day of May, in the twenty-ninth year aforesaid, and on the said other days and times there unlawfully and wilfully did permit and suffer the said idle and evil disposed persons to be and remain playing and gaming at the said unlawful game called billiards, for divers large and excessive sums of money, to the great damage and common nuisance of all the liege subjects of our said lord the king, his crown, and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Stephen F. being an evil disposed person, and not minding to gain his livelihood by honest labour, on the said first day of May, in the twenty-ninth

year

year aforesaid, and on divers other days and times between that day and the first day of December, in the twenty-ninth year aforesaid, with force and arms, at London aforesaid, in the parish aforesaid, in the ward aforesaid, in L. aforesaid, unlawfully and injuriously did keep and maintain a certain common gaming-room in the house of the said S. F. there situated for wicked lucre and gain, and in the said common gaming-room, on the said first day of May, in the twenty-ninth year, and on the said other days and times did there unlawfully and wilfully cause and procure divers idle and evil disposed persons to frequent and come together to game and play at a certain unlawful game called billiards, and in the said common gaming-room, on the said first day of May, in the twenty-ninth year aforesaid, and on the said other days and times there unlawfully and wilfully did permit and suffer the said idle and evil disposed persons to be and remain playing and gaming at the said unlawful game called billiards, for divers large and excessive sums of money, to the great damage and common nuisance of all the liege subjects of our said lord the king, to the evil example of all other persons, and against the peace of our said lord the king, his crown, and dignity.

SURRY, to wit. The jurors for our lord the king upon their oath present, that Frederick Augustus Newman, late of *Wandsworth*, in the county of Surry, esquire, Charlotte Newman, late of *Chelsea*, in the county of Middlesex, spinster, and John Bee, late of *Fetter-lane*, in the city of London, gentleman, did with force and arms, &c. after the tenth day of June, in the year of Our Lord 1570, to wit, on the eighth day of June, in the thirty-sixth year of the reign of our lord the now king, at Lambeth, in the county of Surry, wittingly and willingly put in use, maintain, and justify as true, a certain covenous and fraudulent grant and conveyance of goods and chattels, bearing date the thirty-first day of May, in the year of Our Lord 1796, and made between the said Frederick Augustus Newman (by the name and description of Frederick Augustus Newman, of Wandsworth, in the county of Surry, esquire), of the one part, and the said Charlotte Newman (by the name and description of Charlotte Newman, of Chelsea, in the county of Middlesex, spinster), of the other part, to the end, purpose, and intent to delay, hinder, and defraud one William Pinder, then being a creditor of the said Frederick Augustus Newman, of his just and lawful debt, against the form of the statutes in such case made and provided, and against the peace of our lord the now king, his crown, and dignity.

Indictment on the statute for putting in use and maintaining a grant which was fraudulent.

MIDDLESEX. The jurors of our lord the king upon their oath present, that J. M. late of, &c. esquire, being a person of challenge to fight a duel, and writing a libellous letter.

Indictment for sending a written libellous letter.

2d Count, for a
libel.

son of an evil mind, and of a turbulent and quarrelsome temper and disposition, and not having any regard for the laws of this realm, most unlawfully, wickedly, and unjustly, and out of his malice aforethought devising, contriving, and intending to vex, injure, hurt, disquiet, and terrify G. S. of, &c. in, &c. esquire, being a person of good fame, name, and character, credit, and reputation, and of a quiet and peaceable temper and disposition, and unjustly to expose the said G. S. to scandal, shame, and reproach, and to cause, instigate, incite, and provoke the said G. S. to fight a duel with him the said J. M. and thereby to disturb and break the peace of our said lord the king, he the said J. M. in order to complete, perfect, and bring to effect his most unlawful and wicked purpose aforesaid, upon the seventh day, &c. in the twenty-second, &c. by the grace of God, &c. with force and arms at, &c. in, &c. unlawfully, wickedly, wilfully, and maliciously did frame, compose, and write, and cause to be framed, composed, and written, a challenge to the said G. S. to fight a duel with him the said J. M. by way of two letters from the said J. M. to the said G. S. the first of which said letters is in these words and figures following, that is to say, &c. &c. (copy the letter) to the great damage and terror of him the said G. S. in contempt of our said sovereign lord the king and his laws, to the evil and pernicious example of all others in the like case offending, and also against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. M. being a wicked, malicious, and ill-disposed person, and of a turbulent and quarrelsome temper and disposition as aforesaid, and not having any regard for the laws of this realm, but most unlawfully, wickedly, maliciously, and unjustly devising, contriving, and intending to vex, oppress, scandalize, abuse, traduce, and vilify, and also to hurt, injure, disquiet, and terrify the said G. S. as aforesaid, and greatly envying the happy state and condition of the said G. S. and contriving and maliciously intending (as much as in him the said J. M. lay) to injure and prejudice the said G. S. in his good name, fame, credit, and reputation, and to bring him into scandal, infamy, and disgrace, on, &c. in the twenty-second year, &c. with force and arms on, &c. a certain other false, scandalous, infamous, and malicious libel of and concerning the said G. S. unlawfully and wickedly did make, write, and publish, and caused and procured to be written and published, by way and in the form of a letter, then and there directed and dated to the said G. S. in one part, of which said last-mentioned scandalous and infamous libel is contained divers false, scandalous, infamous, and malicious matters of and concerning the said G. S. according to the tenor following, that is to say, &c. &c. &c. to the great damage and terror of him the said G. S. in contempt of our said lord the king and his laws, to the evil and pernicious example of all others in the like case offending, and also against the peace of our said lord the king, his crown, and dignity.

C. RUNNINGTON.

THE

THE jurors, &c. that on the of , in the twenty-fifth year of the reign, &c. in London, *i. e.* at the parish of Saint Mary le Bow, and in London aforesaid, Samuel Tonche did underwrite a certain policy of insurance upon a certain ship or vessel called the Ann, in the sum of one hundred and fifty pounds upon a certain voyage mentioned in the said policy, to wit, from L. to Gibraltar, with liberty to touch at Cork, and that J. B. and R. M. did then and there also severally underwrite and subscribe a certain other policy of insurance on divers goods and merchandizes loaden or to be loaden on board the said ship or vessel called the Ann, in the several sums following, the said T. R. in the sum of one hundred pounds, and the said R. M. in the further sum of one hundred pounds upon the said voyage, and that T. S. H. H. P. S. and P. C. did also then and there severally underwrite and subscribe a certain other policy of insurance on divers goods and merchandizes loaden or to be loaden on board the said ship or vessel called the Ann, in the several sums following, *i. e.* the said T. S. in the sum of one hundred pounds, the said H. H. in the further sum (so of the others), upon the said voyage: And the jurors, &c. that T. W. late of, &c. and M. P. late of, &c. S. C. late of, &c. well knowing the premises, but wickedly and unjustly contriving and intending to cheat and defraud the said S. T. and the rest of the underwriters of divers large sums of money, *and by means of the aforesaid insurance unjustly to acquire to themselves the said T. W. &c. unlawful gain and advantage*, they the said T. W. &c. did on the said of , in the twenty-fifth year aforesaid, at L. aforesaid, *i. e.* at the parish of, &c. wickedly and unlawfully combine, contrive, conspire, confederate, and agree together to prevail upon and procure one T. M. then and there being the master of, and belonging to the said ship or vessel, and that in pursuance of such their unlawful combinations, contrivances, conspiracies, confederacies, and agreements as aforesaid, they the said S. W. &c. did then and there wickedly and unlawfully persuade, solicit, incite, and procure the said T. M. to sink and destroy the same ship or vessel in the voyage, and before the said ship or vessel should arrive at C. or G. as in the said several policies of insurance mentioned, and that he the said T. M. did in pursuance of such persuasion, solicitations, incitement, and procurement as aforesaid, *i. e.* on the day of , in the twenty-fifth year aforesaid, wilfully and fraudulently sink and destroy the said ship or vessel on the high seas, before the said ship or vessel arrived either at C. or G. so mentioned as aforesaid, to the great damage of the said S. T. &c. in contempt of our said lord the king and his laws, to the evil and pernicious example, &c. and against the peace, &c.: And the jurors, &c. that aforesaid, to wit, on, &c. at, &c. T. H. T. B. B. B. &c. &c. did severally underwrite and subscribe a certain other policy of insurance on a certain other ship or vessel called the Ann, in the several sums following, to wit, &c. upon a certain other

By underwriters of policies of insurance, upon a ship from L. to Gibraltar, for combining and conspiring together to procure the master of the said ship to sink her at sea, in pursuance of which the master did sink and destroy her on the high seas.

ad Count.

C c 2 voyage

3d Count.

voyage mentioned in the said last-mentioned policy, to wit, at and from L. to Cork, and at and from thence to G.: And the jurors, &c. that the said S. W. well knowing, &c. (as in 1st Count); (as the 1st, only say *at* and *from* L. and omit what is in Italicks, and after saying "procure the said T. M. to sink and destroy the same ship or vessel last-mentioned in the said last-mentioned voyage, and before the said ship or vessel should arrive at C. or G. aforesaid," conclude thus; "and that he the said T. M. did afterward and during the said voyage on the high seas wilfully sink and destroy the same ship or vessel last-mentioned, in pursuance of such persuasion and procurement, according to the great damage, &c)." (4th Count like the 2d, omitting what is in Italicks): And the jurors, &c. that in the month of October,

4th Count.

5th Count, that a certain ship was publickly advertized to sail from L. to G. for carrying goods, &c. that defendant well knowing, &c. but being of ill name and contriving to prejudice one S. T. conspired to cause the said ship to be sunk, and to bring this about, persuaded the master to sink her, the said S. T. having insured her, and that in pursuance thereof the said ship was sunk by the master.

which was A. D. 1751, a certain other ship or vessel called , then lying in the river T. was publickly advertized at the Royal Exchange of L. as a ship that would then speedily sail from the port of London to C. and G. &c. as a general ship for carrying goods and passengers from the port of London aforesaid to C. and G. aforesaid, and the jurors, &c. that the said S. W. &c. well knowing the premises, but being a person of ill name, fame, and dishonest conversation, and wickedly and unlawfully devising, conspiring, contriving, and intending to prejudice and defraud one S. T. aforesaid, *i. e.* on the said day of , in the twenty-fifth year aforesaid, with force and arms, at L. aforesaid, *i. e.* at the parish, &c. did wickedly and unlawfully combine, conspire, confederate, and agree together to cause and procure the said last-mentioned ship or vessel wilfully to be sunk and destroyed on the high seas in the course of the said last-mentioned voyage; and in order to bring about such their last-mentioned wicked and unlawful purposes, they the said S. W. &c. did then and there wickedly and unlawfully move and persuade, and procure the said T. M. wilfully to sink and destroy the said last-mentioned ship or vessel on the high seas, and before the arrival of the same ship at C. and G. aforesaid, with intention to prejudice and injure the said T. S. he the said T. S. having then and there underwritten a certain other policy of insurance on the said ship, whereby he the said T. S. had insured on the said ship from L. aforesaid to G. aforesaid, with liberty to touch at C. aforesaid; and the jurors, &c. that afterwards, *i. e.* on the day of , in the twenty-fifth year aforesaid, and before the said last-mentioned ship arrived at G. aforesaid, the said ship in the course of the said voyage was, in pursuance of the aforesaid conspiracy and procurement last-mentioned, wilfully sunk and destroyed by the said T. M. on the high seas, to the great damage, &c. &c. (6th Count same as the 5th, only laying it to be with intention to prejudice the said T. W. aforesaid, he the said T. W. having then and there divers goods and merchandizes, to wit, twelve chests of tea of the value, &c. laden on board the said ship or vessel, to be carried there therein from L. aforesaid to C. aforesaid;

6th Count.

aforesaid: And the jurors, &c. that the said S. W. &c. afterwards, i. e. on the said day of , in the twenty-fifth year aforesaid, with force and arms, at L. aforesaid, i. e. at the parish, &c. did wickedly, fraudulently, and unlawfully combine, conspire, confederate, and agree together to prejudice and defraud S. T. of L. merchant, of a large sum of money, to wit, the sum of one hundred and forty-seven pounds, in order to compass and bring about their said wicked and unlawful purposes, they the said S. W. did wickedly and unlawfully combine and conspire, and cause and procure one T. M. then and there being master of and belonging to a certain ship or vessel called the Ann, wilfully to sink and destroy the said ship or vessel on the high seas, to wit, between L. and G. with intent to prejudice and defraud the said S. T. he the said S. T. having then and there underwritten and subscribed a certain other policy of insurance on the said ship in the sum of one hundred and fifty pounds upon a certain voyage in the said policy mentioned, to wit, from L. to G. with liberty to touch at C.; and that they the said S. W. &c. did then and there according to such confederacy and agreement last-mentioned, wickedly and unlawfully direct and procure the said J. M. then and there being master of the said last-mentioned ship or vessel as aforesaid, wilfully to sink and destroy the said ship or vessel on the high seas in the said last-mentioned voyage, and that the said J. M. in pursuance of such direction and procurement did afterwards and before the said ship arrived at G. aforesaid, wilfully sink and destroy the said ship, to the great damage, &c. &c.

That defendants conspired to-
gether to de-
fraud the said
S. T. of a large
sum of money,
and to bring it
about procured
one T. M. the
master of a
certain ship, to
sink the said
ship, the said
S. T. having
insured 150l.
upon her, and
that the master
accordingly did
sink her.

ESSEX, to wit. The jurors for our lord the king upon their oath present, that John Hill, late of the parish of T. of the county aforesaid, shopkeeper, on the fourth day of July 1765, and from thence until the taking this inquisition, did use and exercise the trade and business of a shopkeeper, and during that time did deal in the buying and selling by weight of divers goods, wares, and merchandizes, to wit, at the parish of T. aforesaid; and that the said J. Hill being a person of wicked and depraved mind, and contriving and fraudulently intending to cheat and defraud our said lord the king's subjects, whilst he was and continued a shopkeeper as aforesaid, to wit, on the said fourth day of June 1765, and on divers other days and times between that day and the day of taking this inquisition, at the parish of T. aforesaid, did knowingly, wilfully, and publicly keep in a certain shop there wherein he the said J. Hill did so as aforesaid carry on his said trade, a certain false pair of scales for the weighing of goods, wares, and merchandizes by him sold in the way of his said trade, which said scales were then and there by artful and deceitful ways and means so made and constructed as to cause the goods, wares, and merchandizes weighed in and sold thereby to appear of greater weight by ounces in every quantity of goods weighed thereby

Indictment for
selling by false
weights and
measures.

1st Count, keep-
ing scales, &c.
and selling.

2d Count, keep-
ing and using
without selling.

thereby than the real and true weight thereof; and that the said J. Hill on the several days and times above mentioned, at the parish of T. aforesaid, he the said J. H. then and there knowing the said scales to be false as aforesaid, did knowingly, wilfully, and fraudulently sell and utter to divers of our lord the king's subjects divers goods, wares, and merchandizes, in the way of his said trade, weighed in and sold by the said false scales, and which goods and wares and merchandizes, by reason of their being so weighed in the said false scales were very much deficient and short of their true and just weight, to wit, at the parish of T. aforesaid, to the great impoverishment of his majesty's liege subjects, to the evil example of all others in the like case offending, and against the peace of our said lord the now king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. H. being a person of a wicked and depraved mind, and further contriving and fraudulently intending to cheat and defraud our lord the king's subjects whilst he was and continued a shopkeeper as aforesaid, to wit, on the said fourth day of July, in the said year of Our Lord 1765, and on divers other days and times between that day and the day of taking this inquisition, at the parish of T. aforesaid, did knowingly, wilfully, and publickly keep and use in a certain other open shop, at the parish of T. aforesaid, wherein he the said T. H. did so as aforesaid carry on his said trade, a certain other false pair of scales for the weighing of goods, wares, and merchandizes by him sold in the way of his said trade, which same scales were then and there by artful and deceitful ways and means so made and constructed as to cause the goods, wares, and merchandizes weighed in and sold thereby to appear of greater weight, to wit, of greater weight by one ounce in every quantity of goods sold thereby than the real and true weight thereof, he the said J. H. then and there well knowing the same scales to be false as aforesaid, and with intent to deceive and defraud his majesty's liege subjects resorting to his said shop, to the great impoverishment of his majesty's liege subjects, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. H. being a person of wicked and depraved mind, and further contriving and fraudulently intending to cheat and defraud the said lord our king's subjects whilst he was and continued a shopkeeper as aforesaid, to wit, on the fourth day of July, in the said A. D. 1765, and on divers other days and times between that day and the day of taking this inquisition, at the parish of T. aforesaid, did knowingly, wilfully, and publickly keep and use in a certain other shop, at the parish of T. aforesaid, wherein he the said J. H. did so as aforesaid carry on his said trade, a certain false pair of scales for the weighing of goods, wares, and merchandizes sold by the way of his said trade, which said scales were then and there by artful and deceitful ways and means so constructed

3d Count, keep-
ing and using
scales so con-
structed.

constructed as to cause the goods, wares, and merchandizes weighed in and sold thereby to appear of greater weight, to wit, greater weight by one ounce in every quantity of goods sold thereby than the real and true weight thereof, he the said J. H. then and there well knowing the said scales to be false as aforesaid, with intent to deceive and defraud his majesty's liege subjects resorting to his said last-mentioned shop, to the great impoverishment of his majesty's liege subjects, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. H. being a person of wicked, and depraved mind, and further contriving and fraudulently intending to cheat and defraud our lord the king's subjects whilst he so was and continued a shopkeeper aforesaid, to wit, on the fourth of July, in the said year of Our Lord 1765, and on divers other days and times between that day and the day of taking this inquisition, at the parish of T. aforesaid, did knowingly, wilfully, and publickly keep and use in a certain other open shop, at the parish of T. aforesaid, wherein he the said J. H. did so as aforesaid carry on his trade, a certain other false pair of scales for the weighing of the goods, wares, and merchandizes by him sold in the way of his said trade, the one of his said scales in which the said J. H. did then and there put and place the goods, wares, and merchandizes by him sold in the way of his said trade for the weighing thereof, then and there preponderating, and being of greater weight aforesaid, to wit, of greater weight by three ounces than the other of the said scales in which the said J. H. did then and there put his weights for the weighing of the said goods, with intent to deceive and defraud his majesty's liege subjects resorting to his said shop; *and that the said J. H. then and there knowing the said scales to be false, did then and there knowingly and wilfully sell and utter to divers of our lord the king's subjects divers goods, wares, and merchandizes, so weighed in and by the said false scales last mentioned, in such false and fraudulent manner as last aforesaid,* to the great impoverishment of his majesty's liege subjects, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: (5th Count like the last, omitting what is in Italicks, lest the selling could not be proved), to the great impoverishment, &c. to the evil example, and against the peace, &c.

4th Count, for
keeping one
scale heavier
than the other,
and selling by,
&c.

5th Count.

THE jurors for our lord the king upon their oath present, that L. Sidney, late of the parish of , in the said county of Middlesex, yeoman, on the eighteenth day of April, in the thirteenth year of the reign, &c. at the parish aforesaid, in the county aforesaid, by fraud, shift, cozenage, circumvention, deceit, unlawful device, and ill practice, did win and acquire to himself a sum of twenty-one shillings of lawful money of Great Britain.

For using false
dice, against the
stat. c. 14

ad Count, for
a fraud at com-
mon law for
winning money
at dice.

the money of A. B. esquire, and of and from the said A. B. in playing with him the said A. B. with false, deceitful, loaded, and fraudulent dice, at a certain game called passage, the said L. S. then and there well knowing the said dice so played with, to be at the time of such play, false, deceitful, loaded, and fraudulent dice, to the great damage of the said A. B. against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown, and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said L. S. on the eighteenth day, &c. at the parish, &c. in the county of Middlesex aforesaid, falsely, fraudulently, and deceitfully did win, obtain, and acquire to himself the sum of twenty shillings of lawful money of Great Britain, of the money of A. B. esquire, of and from the said A. B. at a game at dice called passage, to the great damage of the said A. B. and against the peace of our said lord the king, his crown, and dignity.

Indictment for
breaking the
close, with vio-
lence, and tak-
ing cattle and
sheep.

CUMBERLAND, to wit. The jurors of our sovereign lord the king, upon their oath present, that Joseph Richter, late of S. in the parish of G. in the county of C. yeoman, T. H. late of A. in the parish of S. in the said county, yeoman, T. H. late of B. in the parish of D. in the said county, yeoman, and divers other persons to the jurors aforesaid unknown, on the ninth day of November, in the twenty-sixth year of the reign of our sovereign lord king George the Second, with force and arms at Little B. in the parish of G. in the said county, did unlawfully, riotously, and routously assemble and gather together to disturb the peace of our said lord the king, and being then and there assembled and gathered together, with force and arms, that is to say, with swords, clubs, staves, and knives entered into the close of one W. S. of Little B. in the parish of B. in the said county, called the Banks Close, at Little B. aforesaid, and then and there, with an intent to injure, oppress, and damnify the said W. S. riotously and routously, against the will of the said W. S. unlawfully and injuriously, with force and arms took, drove, and carried one dark brown mare, and twenty-seven sheep, the goods and chattels of the said W. S. and other wrongs to the said W. S. then and there did, to the great damage of the said W. S. and against the peace of our said lord the king, his crown, and dignity, and so forth.

Indictment for
assaulting, me-
nacing, with
loss of life, seiz-
ing throwing
into a dark dan-
geon in Exeter
Castle, and keep-
ing him im-
prisoned there.

DEVONSHIRE, to wit. The jurors of our lord the king upon their oath present, that James Aikin, late of the parish of Heavitree, in the said county of Devon, yeoman, H. H. and J. N. late of the same place, yeoman, on the twenty-sixth day of December now last past, in the twenty-third year of the reign of our sovereign lord George the Third, king of Great Britain, France, and Ireland, king, defender of the faith, and so forth, with force and arms, at the parish of H. aforesaid, in the county

county aforesaid, the dwelling-house of one James Hill there situate and being, in a riotous manner, unlawfully and injuriously broke and entered, and in the said dwelling-house for a long time, to wit, for the space of one hour then next following, unlawfully, and against the will of the said James Hill, stayed and continued, and during all the said time made a great noise and disturbance therein, and greatly terrified and frightened the said James Hill, and Susannah, the wife of the said James Hill, then and there being in the said dwelling-house, and in and upon the said James Hill, then and there being in the peace of God and of our said lord the now king, in the same dwelling-house, with force and arms, to wit, with guns, swords, and pistols, bayonets, and other dangerous and offensive weapons, did make an assault, and him the said James Hill did then and there beat, bruise, kick, and wound, and evilly treat, so that his life was thereby greatly despaired of, and him the said James Hill with loss of life, member, and other bodily harm, did then and there vehemently threaten and menace, and did then and there unlawfully, injuriously, and against the will of the said James Hill, and without any legal warrant or authority in that behalf, seize, take, and drag, and forcibly carry the said James Hill from and out of his dwelling-house, in the parish aforesaid, in the county aforesaid, and him the said James Hill to a certain place called the castle of Exeter, in the county aforesaid, and him the said James Hill in the castle of Exeter aforesaid, in a certain dark and loathsome place and dungeon, there did unlawfully and injuriously put, cast, throw, and imprison, and kept and detained him so imprisoned for a long space of time, to wit, for the space of twenty four hours next following, and other injuries to the said James Hill then and there did, to the damage of the said James Hill, and against the peace of our said lord the now king, his crown, and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. A. James Hill, &c. on the twenty-sixth of December, in the twenty-third year of the reign aforesaid, with force and arms, to wit, with guns, swords, pistols, bayonets, and other dangerous and offensive weapons, at the parish of H. aforesaid, in the county aforesaid, in and upon the said James Hill, then and there being in the peace of God and of our lord the now king, did make an assault, and him the said James Hill did then and there unlawfully and violently beat, bruise, wound, and evilly treat, so that his life was thereby greatly despaired of, and then and there seized, took, and imprisoned the said James Hill without any reasonable or probable cause, and against the will of the said James Hill, and also against the laws and customs of this realm, and kept and detained him so imprisoned for another long time, to wit, for the space of twenty-four hours then next following, and other injuries to the said James Hill, then and there did, to the great damage of the said James Hill, and against the peace of our said lord the now king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further

3d Count, assault and imprisonment.

3d Count, assault only.

present,

present, that the said J. A. and on the said, &c. with force and arms, to wit, with guns, &c. and other dangerous weapons, at the parish of, &c. in the county aforesaid, in and upon the said J. H. then and there being in the peace of God and the said lord the now king, did make an assault, and him the said James Hill did then and there unlawfully and injuriously beat, bruise, wound, and evilly treat, so that his life was again thereby greatly despaired of, and other injuries to the said J. H. then and there did, to the great damage of the said J. H. and against the peace of our said lord the now king, his crown and dignity, &c.

Defendants were found Guilty at Christmas Sessions, 1782.

For making an assault on a virgin with intent to ravish her.

KENT, to wit. The jurors for our lord the king upon their oath present, that Thomas Miller, late of, &c. on the thirty-first day of July, and with force and arms, at the parish of Saint Lawrence, in the county aforesaid, in and upon Mary May, spinster, in the peace of God, and of our said lord the king, then and there being, made an assault, with an intent feloniously to ravish, and carnally know the said Mary against the will of the said Mary; and the said Mary, with force and arms then and there beat, bruised, wounded, and ill-treated, so that her life was thereby greatly despaired of, and other injuries to the said Mary then and there with force and arms did, to the great damage of the said Mary, and against the peace of our lord the king, his crown and dignity, &c.

18. Eliz. c. 7.

The two offences cannot be joined in one indictment; namely, the felony (rape), and the assault above, cannot be joined in one; for the one crime is

statutable, and is felony, without benefit of the clergy; the other is an offence at common law only, and is a species of assault.

Plea.

That the highway in the indictment is partly within the liberty of, &c. partly, &c. being in a different district of the same parish, and that the inhabitants of those parts of the parish ought, from time whereof, &c. respectively to an end what lies within their liberty.

AND R. T. and T. S. two of the inhabitants of the said parish of Cranborn, for themselves, and the rest of the inhabitants of the said parish (except the inhabitants of the liberty of the borough of C. the liberty of the Priory, the tything of C. the tything of H. and the tything of A. in the said parish), in their proper persons came, and having heard the said indictment read, say, that they do not apprehend that our said lord the king will or ought further to impeach them, or any, or either of them (except the inhabitants of the liberty of the borough of C. aforesaid, &c.) because they say, that the said highway, in the said indictment mentioned, and therein alledged to be ruinous, in decay, and out of repair, is, and at the said several times when, &c. was, and from time whereof, &c. hath been situate, lying, and being partly within the said liberty of the borough of C. aforesaid, other part thereof and the residue thereof, within the tything of A. aforesaid, within the said parish, i. e. at the parish aforesaid; and that the inhabitants of the liberty of the

the borough of, &c. aforesaid, the liberty of the priory aforesaid, &c. respectively, from time whereof, &c. have repaired and amended and have used and been accustomed to repair and amend, and still of right ought respectively to repair and amend the said king's highway in the said indictment mentioned and alledged to be ruinous, in decay, and out of repair, in manner following, *i. e.* the inhabitants of the borough of C. aforesaid, so much thereof as lies within the said borough, the inhabitants of the Priory aforesaid, so much thereof as lies within the said liberty, &c. (so on with the others), *i. e.* at the parish aforesaid, and this the said R. T. and T. S. for themselves, and the rest of the inhabitants of the said parish of C. (except the inhabitants of the liberty of the borough of C. &c.) are ready to verify; wherefore they pray judgment if our said lord the king will or ought further to impeach them of and concerning the premises in the said indictment mentioned, and that the said R. T. and T. S. and the rest of the inhabitants of the said parish of C. (except, &c. *ut supra*) may be dismissed and discharged by the court here of and from the premises in the said indictment mentioned.

F. BULLER.

CITY OF CARLISLE, to wit. Be it remembered that at the general quarter sessions of the peace of our sovereign lord the king, holden at the Guildhall in and for the said city of Carlisle, on Monday, the twelfth day of July, in the thirtieth year of the reign of our sovereign lord king George the Second, before Richard Cook, esquire, mayor, and William Milbourne, esquire, recorder, justices of our said lord the king, assigned to keep the peace of our said lord the king in the same city, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said city committed upon the oath of twelve jurors, honest and lawful men of the said city, who being then and there sworn and charged for our said lord the king, and the body of the said city, say, and present as followeth, that is to say, "City of Carlisle, to wit. The jurors for our lord the king upon their oath present, that John Strong, late of the parish of Saint Mary, within the city of C. in the county of Cumberland, weaver, on the twelfth day of January, in the fifth year of the reign of the late queen Elizabeth of England, and so forth, did not lawfully use or exercise any art, mystery, or manual occupation within England or Wales, yet the said J. Strong afterwards, to wit, from the twenty-third day of March, in the twenty-ninth year of the reign of our sovereign lord George the Second, now king of Great Britain, and so forth, and continually afterwards, for the space of two months then next following, in the city of Carlisle aforesaid, for his own lucre and gain did set up, use, and exercise the art, mystery, and manual occupation of a grocer, being an art, mystery, or manual occupation used within England aforesaid, on the said twelfth day of January, in the said fifth year of the reign of the said late queen Elizabeth, in which same art,

Indictment for exercising a trade against the statute of the 5th of Elizabeth, not having served an apprenticeship for seven years.

Quære, If this indictment lay. or only information for the penalty of 40s. a month.

art, mystery, or manual occupation of a grocer, he the said J. Strong was not brought up for the space of seven years as an apprentice, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity.

For perjury upon a trial of an indictment for sodomitical practices.

MIDDLESEX, to wit. The jurors of our lord the king upon their oath present, that heretofore, *i. e.* at the sittings holden at Westminster, in the said county of Middlesex, in the great hall of pleas there, commonly called Westminster Hall, on the twentieth day of November, in the seventeenth year of the reign of our sovereign lord the now king, before the right honourable William, earl of Mansfield, then lord chief justice of our said lord the king, assigned to hold pleas before the king himself, J. W. esquire, being then and there associated unto him, according to the form of the statute, and a certain issue in due manner joined upon a certain bill of indictment before that time preferred and found against Samuel Foote, late of the parish of St. Martin in the Fields, in the said county of Middlesex, esquire, in and by which said bill of indictment, he the said S. F. was charged and accused with having made an assault upon one John Sangster, with intent that detestable and sodomitical crime not to be named amongst christians, called buggery, with the said J. S. feloniously to commit, and did come on to be tried, and was tried in due form of law by a jury of the said county of Middlesex, duly sworn between our said lord the king and the said S. F. in that behalf, and upon the said trial J. S. late of Westminster, in the said county of Middlesex, yeoman, being the said J. S. in the said indictment named, did then and there appear as a witness for and on the behalf of the said lord the king, and then and there before the said William, earl of Mansfield, the chief justice aforesaid, did take his corporal oath, and was then and there duly sworn upon the Holy Evangelists of God, that the evidence which he the said J. should give to the court and jury sworn between our said lord the king and the said S. F. should be the truth, the whole truth, and nothing but the truth (he the said William, earl of Mansfield, having a competent authority to administer an oath to the said J. S. in that behalf), and it then and there, upon the trial of the said indictment, became and was a material question, whether the said Samuel Foote, on the first day of May then last past, was at the house of him the said S. F. in S. street, in the parish of St. Martin in the Fields in the county of Middlesex or not, and thereupon the said J. S. being so produced and sworn as aforesaid, devising, and wickedly and maliciously intending to cause and procure a verdict to pass against the said S. F. on the trial of the said indictment, and not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there before the chief justice aforesaid, in the said court, did falsely, wilfully, and corruptly, and of his own proper act
and

and consent, say, depose, swear, and give in evidence amongst other things to the laid jurors of the said jury so sworn between the said lord the king and the said S. F. as aforesaid, that the said S. F. on the said first day of May then last past, did arrive in town (meaning at the said house of him the said S. F. in S. street aforesaid) about a quarter before eleven o'clock in the morning, and that the said S. F. then went on the stage of his play-house, and continued there for the space of an hour and a half, as nearly as he the said J. S. could remember, whereas in truth and in fact the said S. F. on the said first day of May then last past, did not arrive at his said house in S. street aforesaid, nor was at his said house in S. street aforesaid, at any time on that day: and whereas in truth and in fact the said S. F. did not on the said first of May then last past go on the stage of his play-house, and so the jurors aforesaid, upon their oath aforesaid, do say, that the said J. S. at and upon the said trial of the said indictment on the said twenty-ninth of November, in the seventeenth year of the reign of our said present sovereign lord the king at Westminster aforesaid, in the county aforesaid, before the said William, earl of Mansfield, the chief justice aforesaid, and the said chief justice then and there having a competent authority to administer the said oath to the said J. S. as aforesaid, by his own proper act and consent, in manner and form aforesaid, did falsely, wilfully, and corruptly, upon his oath aforesaid, commit wilful and corrupt perjury, to the great displeasure of Almighty God, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, &c. that on the said trial of the aforesaid indictment, he the said J. S. being so produced and sworn as aforesaid, and devising, and wickedly and maliciously intending to hurt, injure, and prejudice the said S. F. and to cause and procure a verdict to pass against the said S. F. on the said trial of the said indictment, and not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there before the chief justice aforesaid, in the said court, did falsely, wilfully, and corruptly, and of his own proper act and consent, say, depose, and swear, and give in evidence, amongst other things, to the said jurors of the said jury so sworn between the said lord the king and the said S. H. aforesaid, in substance as aforesaid (*i. e.*) that the said S. F. on the said first of May then last past, at the house of him the said S. F. in S. street aforesaid, caught hold of him the said J. S. round the waist, and got shoving up against the said J. S. and (in like manner state the rest of the evidence) when in truth and in fact the said S. F. in S. street aforesaid, or at any time or place, did not catch hold of him the said J. S. round the waist, and get shoving up against him the said J. S. &c. &c. and whereas in truth and in fact the said S. F. did not, &c. &c.: And so the jurors aforesaid, upon their oath aforesaid do say, that the
said

said J. S. at and upon the said trial of the said indictment, on the said twenty-ninth day of November, in the seventeenth year aforesaid, at Westminster aforesaid, in the county aforesaid, before the said William, earl of Mansfield, the chief justice aforesaid (he the said chief justice then and there having competent, &c. &c.) did falsely, wilfully, and corruptly, and by his own act and consent, in manner and form aforesaid, commit wilful and corrupt perjury, to the great displeasure and in contempt, &c. to the evil, &c. and against the peace of our said lord the king, his crown and dignity, &c.

F. BULLER.

For conspiracy in bringing three paupers into a parish in which they had no settlement without any warrant, and leaving them there in order to charge the parish with their maintenance.

The jurors, &c. that defendants, late of, &c. wickedly and maliciously intending and devising to injure the inhabitants of the parish of Brixton, in the said county of D. liable to be taxed and rated for the relief of the poor of the parish of B. aforesaid, in the said county of D. on the day of in the thirteenth year, &c. of George the Third, now king, &c. at the parish aforesaid, in the said county of D. wickedly and maliciously conspiring and combining together to charge the said inhabitants of the said parish of B. in the said county of D. with the support and maintenance of three paupers (they the said three paupers then and there being poor, impotent persons, not able to provide for themselves, and the said paupers not having gained, or having, nor either of them having gained or having any legal settlement in the said parish of B. in the said county of D. and the said defendants then and there knowing that the said paupers had not gained nor had, nor either of them had gained or had any legal settlement in the said parish of B. in the said county of D.: And the jurors, &c. that the said defendants, for the purpose of carrying their wicked, unlawful conspiracy into execution, and in pursuance thereof, on the said day of in the said thirteenth year of the reign, &c. at the parish of aforesaid, in the said county of D. *unlawfully and wickedly pretended and asserted to the said paupers, that they the said defendants had got and obtained an order for the removal of the said paupers to the said parish of B. in, &c. and then and there, to wit, on said of in the said thirteenth year of, &c. at the parish of L. aforesaid, in, &c. they the said defendants, in further pursuance of the said conspiracy, and under colour and pretence of such pretended order, with force and arms unlawfully and wickedly took the said paupers and carried them the said paupers from the said parish of in, &c. into the parish of B. aforesaid, in the said county of D. to wit, to a certain place in the said parish of B. and called, &c. and then and there left the said paupers in the parish of B. in, &c. when in truth and in fact the said defendants had not, nor had either of them any order or authority whatsoever for the removal or conveyance of the said paupers to the said parish of B. in and to the*

great damage of the said inhabitants of said parish of B. to the evil and pernicious example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the jurors, &c. that defendants wickedly and maliciously intending and devising to injure the said inhabitants of the parish of B. in and liable, &c. (*ut supra*) in the said county of D. and to charge them with the support and maintenance of the said paupers, they the said paupers then and there being poor and (*ut supra* to the words in Italic) on the said day of in the said thirteenth, &c. with force and arms, and with intent to charge the said inhabitants of said parish of B. as aforesaid, unlawfully and wickedly, and without any legal warrant, order, or authority whatsoever, took and carried the said paupers from places to the aforesaid jurors unknown, and into the said parish of B. aforesaid, in the county aforesaid, and then and there left the said paupers in the said parish of B. in the said county of D. to the great damage of the said inhabitants of the said parish of B. to the evil and pernicious example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

Second count.

Crown circuit.
Comp. 182. 9.

F. BULLER.

The jurors of our lord the king upon their oath present, that one T. H. heretofore, (*i. e.*) on the of in the year of the reign, &c. prosecuted out of the court of our said lord the king, before the king himself, the same court then being at Westminster, in the county of Middlesex, a certain writ of our said lord the king, called a *latitat*, against one J. B. directed to the then sheriff of W. by which said writ, reciting that our said lord the king commanded the said then sheriff that he should take the said J. B. &c.: And the jurors aforesaid, &c. that the said writ so sued out as aforesaid by the said J. H. was by him sued out with intent to declare against the said J. B. in the same court, in a certain plea of debt for a certain penalty supposed to have been incurred by the said J. B. by reason of his the J. B.'s having before that time caused a certain waggon of him the said J. drawn by more than four horses, to wit, by five horses, to travel and pass upon a certain turnpike road in the parish of

For taking a composition for a penalty inflicted by an act (to regulate the breadth of waggon wheels, and the number of horses allowable) after defendants had sued for the same.

16. Geo. 2. c. 29.
This offence is punishable by 4. H. 7. c. 20.

in the said county of W. the fellies of the wheels of the same waggon at the time the same so passed along the same road, being of less breadth and gauge than nine inches from side to side, against the form of the statute, &c.: And the jurors, &c. that the said J. H. late of in the said county of W. being a person of evil disposed mind, and not regarding the statute, &c. on the day of, in the third year of, &c. at the parish of B. in said county, unlawfully and for wicked gain sake did take upon himself to compound and agree with the said J. B. for the said offence, without the order or consent of the said court of our said lord the king, before, &c. out of which same court

Second count,
receiving five
guineas.

(a) See this part
in next count.

Third count
ten pieces.

court the said writ against the said J. B. was so sued out as afore-
said, and then and there did exact, receive, and have, of and
from the said J. B. a large sum of money, to wit, five pieces of
gold coin, of the proper coin of this kingdom, of the value of
five pounds and five shillings of lawful, &c. and as and for a
reward for compounding with the said J. B. for the said offence,
and desisting from further prosecuting his said suit against the
said J. B. against the form of the statute, &c. and against the
peace, &c.: And the jurors, &c. that the said J. H. being an
evil disposed person, and disregarding the statute in that case
made and provided, on the said day of in the said third
year of, &c. at the parish of afore-
said, in the said county
of W. by colour and pretence of a certain process before that
time by him taken out and prosecuted out of the court of our
said lord the king before, &c. against the said J. B. for and on
account of a certain offence supposed to be committed by the
said J. in this, that the said J. had before that time, by reason
of his the said J. B.'s having (a) before that time caused a certain
waggon of him the said J. drawn by more than four horses, to
wit, by five horses, to travel and pass upon a certain turnpike
road in the parish of in the said county of W. the
fellies of the wheels of the same waggon, at the time of the
same, &c. (*ut supra*) form of the statute, &c. he the said J. H.
unlawfully and for wicked gain sake did take upon himself to
make composition with the said J. B. for the said last-mentioned
offence, and did then and there take and receive of and from the
said J. B. a large sum of money, i. e. five pieces, &c. called
guineas, of the value of, &c. of lawful, &c. as and for a reward
for his the said J.'s desisting and forbearing to prosecute the said
J. B. for the said last-mentioned offence, without the order and
consent of the said court of our said lord, &c. or without the
order or consent of any of our said lord the king's courts at West-
minster for that purpose first had and obtained, against the form
of the, &c. and against the peace, &c.: And the jurors, &c.
being an evil disposed person, &c. (as in second count till) by
colour and pretence of the said J. B.'s having committed a cer-
tain offence against a certain penal law, in this that the said J. B.
had before that time caused a certain waggon of him the said J.
drawn by more than four horses, to wit, &c. (as in second count)
contrary to a certain statute, and did unlawfully and for wicked
gain sake, and without the order and consent of any of our lord
the king's courts at Westminster, take upon himself to make
composition with the said J. B. for the said supposed offence last
mentioned, and did then and there take and receive, &c. (i. e.)
ten pieces, &c. to prosecute the said J. B. for the said supposed
offence, against the form of the statute, &c. &c. against the
peace, &c.

KENT.

PRISON (PULLING DOWN).—NUISANCE TO HIGHWAYS. 401

KENT, to wit. The jurors of our lord the king upon their oath present, that William Guy, late of the village of Ramsgate in the said county of Kent, innkeeper, devising and intending to impede the due course of law, and to prevent the punishment of persons guilty of trespasses and other trivial offences and misdemeanors committed within the village of Ramsgate aforesaid, on the day of in the twenty-second year of the reign of our present sovereign lord George the Third, of Great Britain, France, and Ireland, king, defender of the faith, &c. with force and arms, to wit, with pickaxes, hatchets, hammers, and other instruments, at the village aforesaid, in the county aforesaid, the cage prison and the stocks of our lord the king, then and there of right and according to law, erected, set up, and being for the safe custody and detention, and for the due punishment and correction of persons guilty of trivial offences or misdemeanors within the village of Ramsgate aforesaid, unlawfully pulled down, demolished, prostrated, and wholly destroyed, in contempt of our said lord the king and his laws, to the great obstruction and hindrance of the due execution of justice, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, further present, that the said William Guy, devising and intending as aforesaid, on the day of in the twenty-second year of the reign aforesaid, with force and arms, to wit, with pickaxes, hatchets, hammers, and other instruments, at the village of Ramsgate, in the county aforesaid, the cage prison of our said lord the king then and there of right and according to law erected, set up, and being for the safe custody and detention, and for the due punishment and correction of persons guilty of having committed any trivial offence or misdemeanor within the village of Ramsgate aforesaid, unlawfully (a) pulled down, demolished, and prostrated, and wholly destroyed, in contempt of our said lord the king and his laws, to the great obstruction and hindrance of the due execution of justice, and against the peace of our said lord the king, his crown and dignity. [Third count same as last, only instead of cage prison say other the stocks; fourth like second, only say cage prison and stocks unlawfully caused and procured to be pulled down, &c.; fifth like second, only causing and procuring the cage prison to be pulled down; sixth like second, for causing and procuring the stocks only to be pulled down.

For pulling down the cage prison and stocks at Ramsgate, in Kent.

ad Count.

(a) In 4th, 5th, and 6th counts, insert here "caused and procured to be."

3d Count.

4th Count.

5th Count.

6th Count.

KENT, to wit. The jurors for our lord the king upon their oath present, that from time whereof the memory of man is not to the contrary there hath been and yet is a certain common and ancient king's highway, leading from the vill of Tunbridge, in the said county of Kent, towards and unto the vill of Indeley in the same county, used by all liege subjects of our said lord the king, and his ancestors the kings and queens, to go, return, pass, and repass, in, through, and along the same highway, with their

For erecting a gate across a public road.

2d Count, for
locking and fast-
ening a gate e-
rected in a com-
on public road.

cattle, carts, and carriages, at all times at their will and pleasure, without any obstruction, hindrance, or impediments; yet one James Eldridge, late of the parish of Tunbridge, in the said county, yeoman, one Thomas Ralph, late of the same place, yeoman, one, &c. late, &c. and one, &c. late, &c. on the twenty-sixth day of April, in the 22d year of the reign of our sovereign lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c. with force and arms at the parish of Tunbridge aforesaid, in the county aforesaid, unlawfully and injuriously made, erected, and placed, and caused to be made, erected, and placed, a certain gate and gate posts in, upon, and across the said king's highway, in the parish of T. aforesaid, in the county aforesaid, between the said vill of Tunbridge and Indeley, and unlawfully and injuriously locked, fastened, and chained the said gate posts so as aforesaid made, erected, and placed, and locked, fastened, and chained, from the said twenty-sixth day of April, in the twenty-third year aforesaid, until the day of taking the inquisition, with force and arms at the parish of Tunbridge aforesaid, in the county aforesaid, unlawfully and injuriously continued, and still doth continue, whereby the liege subjects of our said lord the king for all the time aforesaid were not able, nor yet are able to go, return, pass, and repass along and through the said common king's highway, with their cattle, carts, and carriages, as they were accustomed and ought to do, to the great damage, hindrance, and common nuisance of the liege subjects of our said lord the king going, returning, passing, and repassing along and through the common king's highway, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, further present, that from time whereof, &c. there hath been and yet is a certain other common and ancient king's highway leading from the vill of Tunbridge aforesaid, in the said county of Kent, towards and unto the vill of Indeley in the same county, used by all the liege subjects of our said lord the king and his ancestors kings and queens, to go, return, pass, and repass, in, through, and along the said last-mentioned highway, with their cattle, carts, and carriages, at all times at their will and pleasure, without any obstruction, hindrance, or impediment; yet the said James Eldridge, Thomas Ralph, J. H. and C. P. on the said twenty-sixth April, in the twenty-second year of the reign of our said lord the king, with force and arms at the parish of T. aforesaid, in the said county, unlawfully and injuriously locked, fastened, and chained, and caused to be locked, fastened, and chained, a certain other gate before that time made, to certain other gate posts before that time made, erected, and placed in, upon, and across the said last-mentioned king's highway, in the parish of Tunbridge aforesaid, in the county aforesaid, between the vill of Tunbridge and Indeley, and the said last-mentioned gate so locked, fastened, and chained to the said last-mentioned gate

gate posts, from the said twenty-sixth April, in the twenty-second year aforesaid, until the day of taking this inquisition, with force and arms at the parish of Tunbridge aforesaid, in the county aforesaid, unlawfully and injuriously continued, and still doth continue, whereby the liege subjects of our said lord the king for all the time last aforesaid were not able, or yet are able to go, return, pass, and repass along and through the said common king's highway, with their cattle, carts, and carriages, as they were accustomed and ought to do, to the great damage, hindrance, and common nuisance of the liege subjects of our said lord the king going, returning, passing, and repassing along and through the said common king's highway, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

BUCKINGHAMSHIRE, to wit. The jurors for our lord the king upon their oath present, that William Linnel, late of the hamlet of Fenny Stratford, within the parish of Bletchley, in the county of Buckingham, gentleman, on the day of March, in the year of Our Lord 1790, was seised in his demesne as of fee of and in a certain messuage and garden thereunto belonging, with the appurtenances situate, lying, and being in the said hamlet of F. S. within the parish of B. aforesaid, in the county aforesaid, which said messuage and garden, with the appurtenances, were then and there in the possession of one Cleaver, and the said William Linnel, being so seized of the said messuage and garden, with the appurtenances as aforesaid, and the said messuage and garden with the appurtenances so being in the possession of the said Cleaver as aforesaid, one John Biggs, late of the same hamlet of F. S. within the parish of B. aforesaid, in the county aforesaid, yeoman, and one Tatham, late of the same hamlet, parish, and county, yeoman, aforesaid, to wit, on the day of March, in the said year of Our Lord 1790, into the said messuage and garden, with the appurtenances as aforesaid, situate and being in the hamlet aforesaid, within the parish aforesaid, in the county aforesaid; with force and arms, and with strong hands, unlawfully did enter, and the said Cleaver from the peaceable possession of the said messuage and garden, with the appurtenances aforesaid, then and there with force and arms, and with strong hands, violently and unlawfully did expel and put out, and the said Cleaver from the possession thereof so as aforesaid, with force and arms, and with strong hands, being violently and unlawfully expelled and put out, they the said John Biggs and Tatham, him the said Cleaver, from the aforesaid day of March, in the year aforesaid, until the day of the taking of this inquisition, from the possession of the said messuage and garden, with the appurtenances aforesaid, with force and arms, and with strong hand, unlawfully and injuriously in the hamlet aforesaid, within the parish and county aforesaid, did keep

Indictment for forcible entry.

MISDEMEANOR.—FORCIBLE ENTRY.

out, and still do keep out, and so the said William Linnel was on the said day of March, in the year aforesaid, at the hamlet aforesaid, within the parish and county aforesaid, disseised by them the said John Biggs, and the said Tatham, to the great damage of the said William Linnel, and against the form of the statute in that case made and provided, and against the peace of our said lord the king, his crown and dignity.

Indictment for a forcible entry.

It must be stated what estate and interest the duchess of B. &c. had in the premises.

MIDDLESEX. The jurors for our lord the king upon their oath present, that Terry Brady, late of the parish of St. Giles in the Fields, in the county of Middlesex, yeoman, and Ann, his wife, on the twenty-fourth day of November, in the twenty-fourth year of the reign of our sovereign lord George the Third, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, with force and arms unlawfully, and with a strong hand, broke and entered, and made an entry into one messuage and one yard behind the same, with the appurtenances, situate and being in the said parish of Saint Giles in the Fields, in the county aforesaid, then being in the peaceable and quiet possession of the most noble Gertrude duchess dowager of Bedford, the most noble George duke of Marlborough, and the most noble Caroline duchess of Marlborough, his wife, and Robert Palmer, Esq. for the residue of a term of then to come, and not yet expired or determined, and them the said Gertrude duchess dowager of Bedford, George duke of Marlborough, and Caroline duchess of M. his wife, and Robert Palmer, esquire, from their possession of the said messuage and yard behind the same, then and there with force and arms, unlawfully, unjustly, and with a strong hand expelled, ejected, and amoved, and them the said Gertude duchess dowager of B. George duke of M. and Caroline duchess of M. his wife, and R. Palmer, esquire, from their said possession so as aforesaid expelled, ejected, and amoved, from the said twenty-fourth day of November in the year aforesaid, until the day of taking of this inquisition, to wit, the day of in the twenty-fourth year of the reign aforesaid, at the parish of Saint Giles in the Fields aforesaid, in the county aforesaid, with force and arms unlawfully, unjustly, and with a strong hand, held out, and yet do hold, to the great damage of the said G. duchess dowager of B. G. duke of M. C. duchess of M. his wife, and R. P. esquire, and against the peace of our said lord the now king, his crown and dignity, and also against the form of the statute in such case made and provided, &c.

Duchess of Bedford, &c. brought an ejectment to recover possession of a tenement in possession of Brady and wife. Judgment was obtained, and sheriff executed writ of possession: after the tenants had been

ejected, and the officer had locked up the door, Brady's wife in the night time broke open the door, took possession, and lived there, together with her husband, for which this indictment was preferred against them.

MIDDLESEX,

MIDDLESEX, to wit. The jurors for our lord the king, Indictment for erecting a gate across a public highway. upon their oath present, that A. P. late of the parish of Saint Mary, Islington, in the county of Middlesex, brickmaker, on the first day of January, in the twenty-ninth year of the reign of our sovereign lord George the Third, king of Great Britain, &c. with force and arms, at the parish aforesaid, in the said county of Middlesex, in a certain king's highway there leading from the village of Newington through and over Kingland Green to the village of Islington, at a certain place there near to the south corner of a place called Mr. Kay's nursery ground, unlawfully and injuriously did erect and cause to be erected a certain wooden gate of the length of fifteen feet, and of the heighth of four feet, upon and across the said king's highway aforesaid, that the said A. P. and W. H. the said wooden gate so as aforesaid erected and made, from the said first day of January, in the year aforesaid, until the day of the taking this inquisition, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully and injuriously did continue locked and fastened with an iron chain, and yet doth continue, by which the aforesaid king's common highway during all the time aforesaid was so obstructed and stopped up so that the king's liege subjects in, by, and through the same highway could not, nor yet can go, return, and pass with their horses, coaches, carts, and carriages so freely as they ought and were wont to do, to the great damage and common nuisance of all the liege subjects of our said lord the king through the same king's highway going, returning, and passing with their horses, coaches, carts, and carriages, and against the peace of our said lord the king, his crown and dignity.

In an indictment for erecting posts and rails in an highway, it was held necessary to prove that the party indicted did set them up for a continuation of them, for not suffering them to be removed would not do.—Vent. 183. Austin's Case.

MIDDLESEX, to wit. The jurors, &c. present, that Indictment on stat. 9. and 10. Wm. 3. c. 41. s. 2. for having naval stores in his possession. Samuel Rowson, late of the parish of Saint Anne, in the county of Middlesex, mariner, on the thirty-first day of July, in the thirty-first year of the reign of our sovereign lord George the Third, &c. with force and arms, at the parish of Saint Anne, in the said county of Middlesex, unlawfully had in his custody, possession, and keeping of him the said Samuel Rowson, certain naval stores of our lord the king marked with the mark usually used to and marked upon such like naval stores of our said lord the king, that is to say, forty-five yards of wrought canvas, marked with a blue streak in the middle, of the value of one pound seventeen shillings and sixpence, which said naval stores so marked with a blue streak, were then and there found in the custody, possession, and keeping of him the said Samuel Rowson, he the said Samuel Rowson then, or at any other time before, not being a contractor with the principal officers or commissioners of our said lord

2d Count.

3d Count.

lord the king, or employed by any contractor with the principal officers or commissioners of our said lord the king, of the navy, ordnance, or victuallers, for the use of our said lord the king, to make any stores of war or naval stores whatsoever, to the diminution of the naval stores of our said lord the king, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity, &c. (2d Count, that on the same day, certain naval stores of our said lord the king, marked with the mark, &c. as before described were found in the custody and possession, and keeping of the said Samuel Rowson, not being, &c. as before to the end): (3d Count, same as the 1st, only that Rowson unlawfully did conceal certain naval stores.

Plea, Not Guilty.

For not repairing a highway.

MIDDLESEX, to wit. The jurors for our lord the king, upon their oath present, that from the time whereof the memory of man is not to the contrary, there was and yet is a certain common and ancient king's highway leading from the village of , in the county of Middlesex, towards and unto the village of Hendon, in the said county, used for the liege subjects of our said lord the king and his predecessors, with their horses, coaches, carts, and carriages to go, return, pass, and labour at their will and pleasure, and that a certain part of the same king's common highway situate, lying, and being in the parish of Kingsbury, in the county of Middlesex, and situate, and being between a certain place called Blackbird Hill, and a certain common public road called the Edgware road, containing in length eight hundred poles, and in breadth eighteen feet, on the twenty-fifth day of December, in the thirty-second year of the reign of our sovereign lord George the Third, now king of Great Britain, France, and Ireland, defender of the faith, and so forth, and continually from thence until the day of exhibiting this inquisition, at the said parish of Kingsbury, in the county of Middlesex, was and yet is very ruinous, miry, deep, broken, and in such decay, for want of due reparation and amendment of the same, so that the liege subjects of our lord the king through the same way, with their horses, coaches, carts, and carriages, could not during the time aforesaid, nor yet can go, return, pass, ride, and labour, as they used, and still ought to do, without great danger of their lives and the loss of their goods, to the great damage and common nuisance of the liege subjects of our said lord the king through the same way going, returning, passing, riding, and labouring, and against the peace of our said lord the king, his crown and dignity; and that the inhabitants of the said parish of Kingsbury, in the said county of Middlesex, the common highway aforesaid (so as aforesaid being in decay and out of repair) of right ought

to repair and amend when and so often as it shall be necessary :
 And the jurors aforesaid, upon their oath aforesaid, do further ad Count.
 present, that from the time whereof the memory of man is not to
 the contrary there was and yet is a certain ancient and common
 king's highway leading from the village of Kingsbury, in the
 county of Middlesex, towards and unto the village of Hendon,
 in the said county, used for all the liege subjects of our said lord
 the king and his predecessors, with their horses, coaches, carts,
 and carriages, to go, return, pass, ride, and labour at their will
 and pleasure, and that a certain part of the same king's common
 highway, situate, lying, and being in the parish of Kingsbury, in
 the county of Middlesex, and leading from a certain farm called
 Fryar Farm, in the said parish, towards a certain common and
 public road called the Edgware road, containing in length one
 and fifty poles, and in breadth eighteen feet, on the first day of
 January, in the thirty-second year of the reign of our sovereign
 lord George the Third, now king of Great Britain, &c. and
 continually from thence until the day of the taking of this in-
 quisition, at the said parish of K. in the said county of M. was
 and yet is very ruinous, miry, deep, broken, and in such decay,
 for want of due reparation and amendment of the same, so that
 the liege subjects of our said lord the king through the same way
 with their horses, coaches, carts, and carriages could not during the
 time aforesaid, nor yet can go, return, pass, ride, or labour, without
 great danger of their lives and the loss of their goods, to the
 great damage and common nuisance of all the liege subjects of
 our said lord the king through the same way going, return-
 ing, passing, riding, and labouring, and against the peace of
 our said lord the king, his crown and dignity ; and that the in-
 habitants of the said parish of K. in the said county of M. the
 common highway aforesaid (so as aforesaid being in decay and
 out of repair), of right ought to repair and amend when and so
 often as it shall be necessary.

Pleas before our lord the king at Westminster, of Hilary Term, Amongst the in-
 in the year of the reign of our sovereign lord George, &c. dictments in
 [Amongst the Pleas of the King's Rolls.] Easter Term
 last.

DERBYSHIRE. Heretofore, that is to say, on Tuesday, in Indictment that
 the first week after the Feast of the Epiphany of our Lord Christ, a highway is
 to wit, the fifteenth day of January, in the seventh year of the out of repair,
 reign of our sovereign lord George the Second, by the grace of and that the
 God, &c. &c. at the general quarter sessions of the peace of our parishes of A.
 lord the king for his county of Derby, held at Derby, in and B. ought to
 for the said county, before Sir N. C. baronet, R. W. &c. &c. repair it.
 keepers of his majesty's peace, and his majesty's justices assigned
 to keep the peace in the county aforesaid, and also to hear and
 determine divers felonies and trespasses, and other misdemeanors
 perpetrated in the said county, upon the oaths of twelve jurors,
 D d 4 honest

Indictment re-
moved into
B. R.

Demurrer by
certain inhabi-
tants in the
name of the rest.

honest and lawful men of the said county, and then and there impannelled, charged, and sworn to inquire for our said lord the king for the body of the said county, it was presented, that from time beyond the memory of man there was and yet is a certain common king's highway without the liberty of Derby, in the said county of Derby, containing by estimation in length two hundred yards, and in breadth about sixteen yards, lying and being between a certain bridge called Saint Mary's Bridge, within the said liberty of Derby, and a certain place called Chester Green, lying in Little Chester, in the said county of Derby, leading from the market-town of Derby aforesaid, to the market-town of Mansfield, in the county of Nottingham, used for all his majesty's liege subjects, as well for footman as for horsemen, carts, wains, and other carriages in, by, and through which way his said majesty's liege subjects have used to go, ride, and carry with carriages at all times of the year, without any impediment, which said common highway, on the first day of November, in the seventh year of the reign of his present majesty George, &c. within the liberty of Derby aforesaid, was and yet is out of repair, and in such decay, that the liege subjects of our sovereign lord the king having occasion to pass and go through the said way, cannot pass and go through the same without great danger to themselves and loss of their goods and cattle, to the great damage and common nuisance of the subjects of our lord the king who go or pass, or having occasion to go or pass that way, and against the peace of our said lord the king, his crown and dignity; and that the inhabitants of the several parishes of All Saints, Saint Michael's, and Saint Alkmond's, in Derby aforesaid, the said king's highway used and ought to repair and amend as often as there hath been occasion, which said indictment our said lord the king afterwards for certain reasons caused to come to be determined before him according to the laws and customs of England; whereupon the sheriff of the said county was commanded that he should forbear by reason of any liberty in his bailiwick, but that he should cause them to come and answer to our said lord the king touching and concerning the premises aforesaid; and now, that is to say, on Tuesday next, after the Octave of Saint Hilary, in this same term, before our said lord the king at Westminster, comes W. S. and T. N. two of the inhabitants of All Saints aforesaid, in the name of all the inhabitants of the said parish, and R. S. and C. T. two of the inhabitants of the said parish of Saint Michael's, in the name of all the inhabitants of the said parish, by H. A. their attorney, and having heard the said indictment, severally say, that they did not think that our said lord the king would or ought further to impeach or trouble the said inhabitants of the said parishes of All Saints, and Saint M. upon account of the premises aforesaid, because, they severally say, that the said indictment and the matter within contained are insufficient in law, and that they and the said inhabitants of the said parishes of All Saints and

Saint M. need not, nor are they obliged by the law of the land to answer thereto; whereupon for the insufficiency thereof they severally pray judgment, and that the said inhabitants of All Saints and Saint M. aforesaid may be dismissed and discharged by the court here of the premises aforesaid; and James Burrow, coroner and attorney of our said lord the king, who sues for our said lord the king on this occasion, for our said lord the king faith, that the said indictment and the matter therein contained are good and sufficient in law to compel the said inhabitants of the said parishes to answer to the same; which said indictment and the matter therein contained, the said coroner and attorney of our said lord the king is ready to verify as the court, &c. and because the said inhabitants do not answer the said indictment, nor in any wise deny the same, the said coroner and attorney of our said lord the king for our said lord the king prays judgment, and that the said inhabitants may be convicted, &c.

Joinder in demurrer by clerk of the crown in B. R.

It should seem that statute of 27 Eliz. c. 5. for shewing cause of demurrer does not extend to indictments. By a mark on the back of the paper book, it seems that judgment was for the defendant.

SOMERSET. At the general quarter sessions of the peace of our lord the king, holden for the said county of Wells, in the said county, on Tuesday, the ninth day of January, in the sixteenth year of the reign of our sovereign lord George the Third, king of Great Britain, France, and Ireland, king, defender of the faith, and so forth, before Sir A. I. bart. William Taylor, esquire, and others their fellow justices of our said lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the county, committed William Bailey, clerk, of the justices of our said lord the king, assigned for the purpose aforesaid, by virtue of an act made in the thirteenth year of the reign of his majesty king George the Third, for the amendment and preservation of the highways, upon his own view doth present, that from the time whereof the memory of man is not to the contrary, there was and yet is a certain common and ancient king's highway leading from the town of S. in the county of D. towards and unto the town of B. within the county of Somerset, used for all the king's subjects, with horses, coaches, carts, and carriages to go, return, and pass at their free will and pleasure; and that a certain part of the same king's highway situate, lying, and being in the parish of Queen's Cornell, in the said county of Somerset, to wit, from the middle of a certain stream of water called Stratford, for the space of one hundred yards in length, extending from Southwark unto the said parish of Queen's Camell, on the fifth day of January, in the sixteenth year of the reign of our sovereign lord king George the Third, king of Great Britain, &c. and continually afterwards until the present day, was

Presentment by a justice of peace on his view, pursuant to act of 13. Geo. 3. that a highway leading from to is out of repair. Plea.

was and yet is very ruinous, deep, broken, and in great decay, for want of due reparation and amendment, so that the subjects of the present king through the same way with their horses, coaches, carts, and carriages could not during the time aforesaid, nor yet can go, return, or pass as they ought to do and were wont to do, to the great damage and common nuisance of all the king's subjects through the same highway going, returning, or passing, and against the peace of our said lord the king; and that the inhabitants of the said parish of Q. C. aforesaid, in the county of S. aforesaid, the said common highway (so in decay) ought to repair and amend when and so often as it shall be necessary; in testimony whereof the said W. Bailey to these presents hath set his hand and seal this ninth day of January, in the year aforesaid.

Plea.

And A. B. and C. D. two of the inhabitants of the said parish of Q. C. for themselves and the rest of the inhabitants of the said parish, by E. F. their attorney, comes, and having heard the said presentment read, say, that they do not apprehend that they and the rest of the inhabitants of the said parish of Q. C. by reason of the premises in the said presentment above specified, ought to be further prosecuted, because they the said A. B. and C. D. in the name of the inhabitants of the said parish, say, that so much of the said common highway in the said presentment charged to be ruinous, deep, broken, and in decay, as is part of the said stream of water called S. to and from the middle of the said stream of water for the space of two yards in length extending southward, is situate, lying, and being within the parish of Balcary, in the said county of S.; and that the inhabitants of the said parish of B. ought to repair and amend so much of the said common highway in the said presentment charged to be ruinous, deep, broken, and in decay, as is part of the said stream of water, &c.

Presentment
for not keeping
an highway in
repair.

CUMBERLAND, to wit. Andrew Huddleston, esquire, one of his majesty's justices of the peace in and for the said county of C. on his own view and proper knowledge presents, that a great part, that is to say, fifteen hundred yards in length of the king's common highway for all people walking on foot, riding on horseback, and passing with carts and carriages from a place called Pikeless Gate, in the parish of Caldbeck, in the said county, to a place called Ellerbeck, in the parish of Caldbeck, in the said county, in the way leading from the market-town of Hesbeck, Newmarket, in the said county, to the market-town of Cockermouth, in the said county, on the first day of July, in the twenty-fifth year of the reign of our sovereign lord George the Second, was and yet is foundurous, dirty, and in decay, for want of reparation and amendment, so that the subjects of our said lord the king could

could not during the time aforesaid, nor yet can with their horses, carts, and carriages go, return, ride, and labour through the said highway as they at all times, beyond the memory of man to the contrary, have been used and accustomed, and still ought to do without great danger, to the great damage and common nuisance of all the liege subjects of our said lord the king through the said highway going, returning, riding, labouring, and against the peace of our said lord the king, his crown and dignity; and the inhabitants of the parish of Caldbeck, in the said county, time out of mind before the said default, have been used and still ought to repair the said highway; in witness whereof the said Andrew H. hath hereto set his hand and seal, the fifteenth day of July 1752.

Midsummer Sessions, in the twenty-seventh year of the reign of King George the Second.

And J. B. and R. N. two of the inhabitants of the parish of Caldbeck aforesaid, by W. D. their attorney, come, and having heard the said presentment say, that they do not apprehend that our said present sovereign lord the king will further impeach them, and the rest of the inhabitants of the said parish, by reason of the premises in the said presentment above specified, because, the said J. B. and R. N. in the name of themselves, and all the inhabitants of the said parish, say, that the inhabitants of the said parish of Caldbeck ought not, nor have been accustomed time out of mind to repair and amend the said part of the said highway, as by the said presentment is above supposed, but they say, that T. S. the elder, T. S. the younger, J. S. J. F. A. H. W. S. &c. &c. &c. (there were about twenty names) by reason of their tenure of certain lands and tenements situate in the division of Park End, Greenrigg, Norman Intook, and Infolds, in the parish of Caldbeck aforesaid, before the said default have been used, and still ought to repair the part of the said highway by the said presentment supposed to be out of repair; and this the said J. B. and R. N. two of the inhabitants of the said parish of Caldbeck, for themselves, and the rest of the inhabitants of the said parish of Caldbeck, are ready to verify; and the said J. B. and R. N. in the name of themselves, and the rest of the inhabitants of the said parish of Caldbeck, ought not to be charged in manner aforesaid with the repairs of the said part of the said highway, in the said presentment mentioned, and thereby alledged to be foundeours, dirty, and in decay, for want of reparation and amendment, nor with the repairs of any part thereof, because, they say, that the said parish of Caldbeck is, and from time whereof the memory of man is not to the contrary hath been, divided into several divisions, and that one of the said divisions consists of several tenements called Park End, Greenrigg, Norman Intook, and Infolds; that the inhabitants of the said division, or part of the said parish called and distinguished

Plea by two of the inhabitants, that the parish ought not to keep it in repair, but certain persons by reason of their tenures.

2d Plea, that the inhabitants of a certain division in the said parish ought to repair, &c.

MISDEMEANOR.—HIGHWAYS.—REPLICATION.

distinguished by the name of Park End, Greenrigg, Norman Intook, and Infold, time out of mind before the said default in the said presentment mentioned, have been used, and still ought to repair the said highway; and this the said J. B. and R. N. for themselves, and the rest of the inhabitants of the said parish of Caldbeck, are ready to verify; wherefore they pray judgment, &c.

I think this plea is bad, because it is *double*, the statute not extending to indictments or presentments, but only to

actions; the prosecutor must move at the next sessions to set it aside.

Replication.

And Thomas Simpson, gentleman, clerk of the peace of and for the county of C. aforesaid, who for our sovereign lord the now king sues in this behalf, as to the said plea of the said J. B. and R. N. two of the inhabitants of the said parish, above first pleaded in behalf of themselves and the rest of the inhabitants of the said parish, for our said lord the now king say, that notwithstanding any thing above in that plea alledged, our said lord the king will and ought further to impeach the said J. B. and R. N. and the rest of the inhabitants of the said parish, by reason of the said premises in the said presentment above specified, because the said clerk of the peace, who for our said lord the now king sues in this behalf, for our said lord the now king says, that the said inhabitants of the said parish of Caldbeck ought and have been accustomed time out of mind to repair and amend the said part of the said highway in the said presentment mentioned, and have not done it as by the said presentment is above supposed; without this that the said Thomas Scott, the elder, T. S. the younger, &c. &c. by reason of the tenure of certain lands and tenements situate in the division of Park End, Greenrigg, Norman Intook, and Infolds, in the parish of Caldbeck aforesaid, before the said default have been used, and still ought to repair the said part of the said highway by the said presentment supposed to be out of repair, as the said J. B. and R. N. for themselves, and the rest of the inhabitants of the parish of Caldbeck aforesaid, have above in pleading alledged: And this the said Thomas Simpson, clerk of the peace aforesaid, who sues for our said lord the king in this behalf, for our said lord the king prays may be enquired of by the country, &c.: And as to the said plea of the said J. B. and R. N. secondly above pleaded in bar in behalf of themselves, and the rest of the inhabitants of the said parish, he the said Thomas Simpson, clerk of the peace of and for the said county of Cumberland, who for the said lord the now king sues in this behalf, for our said lord the king says, that notwithstanding any thing above in that plea alledged, the said inhabitants of the said parish of Caldbeck ought to be charged in manner aforesaid with the repairs of the said part of the said highway in the said presentment mentioned, and thereby alledged to be founde-
dirty,

Traverse.

Replication to
ad Plea.

dirty, and in decay, for want of reparation and amendment, because the said clerk of the peace, who for our said lord the king sues in this behalf, for our said lord the king says, that the inhabitants of the said parish of Caldbeck aforesaid ought and have been accustomed time out of mind to repair and amend the said part of the said highway in the said presentment specified, in manner and form as by the said presentment is above specified; without this that the inhabitants of that division, or part of the said parish called and distinguished by the name of Park End, &c. &c. time out of mind before the said default in the said presentment mentioned, have been used and still ought to repair the said highway as the said J. B. and R. N. for themselves, and the rest of the inhabitants of the said parish of Caldbeck, have above in pleading in that behalf alledged; and this also the said Thomas Simpson, the clerk of the peace aforesaid, who, &c. for our said lord the king prays may be enquired of by the country, &c.

Traverse;

LANCASHIRE, to wit. The jurors for our lord the king, upon their oath present, that from time whereof the memory of man is not to the contrary, there was and yet is a common and ancient king's highway leading from the market town of Colne, in the said county of L. towards and unto the market town of Skipton, in the county of York, used for all the liege subjects of our said lord the king and of his predecessors with their horses, coaches, carts, and carriages to go, return, pass, ride, and labour at their will and pleasure, and that a certain part of the same king's common highway, situate, lying, and being in the township of Fawbridge, in the county of L. aforesaid, beginning at a certain bridge there called Kirk Bridge, and ending at a certain other place there called Lancashire Gill, containing in length two thousand two hundred yards, and being of the breadth of three yards, on the first day of April, in the twenty-fourth year of the reign of our sovereign lord George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and continually afterwards until the day of the taking this inquisition, was and yet is in great decay for the want of due reparation and amendment of the same, so that the subjects of our said lord the king passing and travelling through the same with their horses, coaches, carts, and carriages could not during the time aforesaid, nor yet can go, return, pass, ride, and labour without great danger, to the great damage and common nuisance of all the liege subjects of our said lord the king passing through the same way, and against the peace of our said lord the king, his crown and dignity; and that the inhabitants of the said township of F. in the said county of L. the common highway aforesaid (so as aforesaid being in decay), ought and are wont, and time immemorially have been accustomed, and now ought to repair and amend when and so often as it shall be necessary, &c.

Indictment against a township for not repairing a road.

And

Plea; ought And and , two of the inhabitants of the township of not to repair, Fowbridge, in the said county of York, by , their attorney, except a certain come, and having heard the said indictment read to them, in behalf of themselves, and the rest of the inhabitants of the said township of F. say, that they do not apprehend that our sovereign lord the king will or ought any further to prosecute or impeach the inhabitants of the said township of F. on account of the premises mentioned in the said indictment, except as to so much of the said common and ancient king's highway as lies within the said township, beginning at the said bridge called Kirk Bridge, and extending fifty-six yards, and no more, from the said bridge towards the said place called Lancashire Gill, and being of the breadth of three yards, because they say, that true it is that the said king's common highway in the said indictment mentioned, and being of such length as aforesaid, were and are in manner and form as by the said indictment is alledged; but for plea in this behalf, as to all the said premises in the said indictment mentioned, except to so much of the said common and ancient king's highway as lies within the said township, and begins at the said bridge called King's Bridge, and extends fifty-six yards, and no more, from the said bridge towards the said place called Lancashire Gill, and being of the breadth aforesaid, the said and say, that the said inhabitants at large of the said township of F. in the said county of L. the common highway aforesaid (so being as aforesaid in decay), or any part thereof, except so much thereof as lies within the said township, and begins at the said bridge called King's Bridge, and extends fifty-six yards, and no more, from the said bridge towards the said place called Lancashire Gill, being of the breadth aforesaid, ought not, nor are wont, nor time immemorially have been accustomed, nor ought to repair and amend when and so often as necessary, in manner and form as in and by the said indictment above alledged; and of this the said and on behalf of themselves, and the rest of the inhabitants of the township of F. put themselves upon the country.

The parish is liable of common right, and therefore I think this plea is good; I conceive, to repair an highway, Mar. without shewing who ought to repair it. pl. 62. 1. Vent. 90. 183. 189. 256. 4. Vin. Abr. 508. pl. 16.

Plea. (except And G. W. one of the inhabitants of the township of O. in as to part of the the said county of Lincoln, by his attorney, comes, and having road in decay) heard the said indictment read to him, on behalf of himself, and that the town- the rest of the inhabitants of O. and Kindall Ferouy, except the ship at large several persons hereinafter mentioned, says, that he does not are not bound intend that our sovereign lord the king will or ought any further to repair it.. to prosecute or impeach any of the inhabitants of the said township of O. and K. F. except the several persons hereinafter mentioned, on account of the premises mentioned in the said indictment, because he says, that the said first mentioned part of

the king's common highway in the said indictment mentioned and described, contains in length yards, and no more, and that the said last-mentioned part of the same king's common highway contains in length yards, and no more, and true it is that both the said parts of the said king's common highway in the said indictment mentioned, and being of such length as aforesaid, were and are in decay in manner and form as in and by the said indictment above alledged; but for plea in this behalf the said says, that from time whereof the memory of man is not to the contrary, the owners and occupiers of a certain close of land called , lying in the township of O. and K. F. aforesaid, and near to the said first mentioned part of the said highway so being in decay as aforesaid, now in the possession and occupation of one Elizabeth Tubb, widow, have repaired and amended, and have been used and accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, a certain part of the said first-mentioned part of the said highway so being in decay as aforesaid, that is to say, yards thereof in length and the whole breadth thereof, when and so often as need hath required or shall require by reason of their tenure of such land; and the owners and occupiers of certain other close of land called , lying in the township of O. and K. F. and near to the said first-mentioned part of the said highway so being in decay as aforesaid, and now in the possession and occupation of one William Hardy, from time whereof the memory of man is not to the contrary, have repaired and amended, and have used and accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, a certain part of the said first-mentioned part of the said highway so being in decay as aforesaid (that is to say), yards thereof in length and the whole breadth thereof, when and so often as need hath required or shall require by reason of their tenure of such land; and that owners and occupiers of a certain other close of land called , lying in the townships of O. and K. F. aforesaid, and near to the said first-mentioned part of the said highway so being in decay as aforesaid, and now in the possession and occupation of one John Watson, from time whereof the memory of man is not to the contrary, have repaired and amended, and have been used and accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, a certain part of the said first-mentioned part of the said highway so being in decay as aforesaid, that is to say, yards thereof in length and the whole breadth thereof, when and so often as need hath required or shall require by reason of their tenures of such lands; and that the owners and occupiers of a certain other close of land called , lying in the townships of O. and K. F. and near to the said last-mentioned part of the said highway in the said indictment mentioned, so being in decay as aforesaid,

aforesaid, and now in the possession and occupation of one Samuel Slingby, from time whereof, &c. have repaired and amended, and have been used and accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, a certain part of the said last-mentioned part of the said highway, so being in decay as aforesaid, that is to say, yards thereof in length and the whole breadth thereof, when and so often as need hath required or shall require by reason of their tenures of such lands; and that the owners and occupiers of a certain other close of land called , lying in the townships of O. and K. F. aforesaid, and near to the said last-mentioned part of the said highway in the said indictment mentioned, so being in decay as aforesaid, and now in the possession and occupation of one J. Fisher, from time whereof the memory of man is not to the contrary, have repaired and amended, and have been used and accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, a certain part of the said last-mentioned part of the said highway, so being in decay as aforesaid, that is to say yards thereof in length and the whole breadth thereof, when and so often as need hath required or shall require by reason of their tenure of such land; and this the said G. W. one of the inhabitants of the said townships of O. and K. F. aforesaid, except as before excepted, is ready to verify; wherefore on the behalf of himself, and the rest of the inhabitants of the said townships of O. and K. F. except as aforesaid, he prays judgment, and that the inhabitants of the said township of O. and K. F. excepted as aforesaid, may be discharged of the said premises in the said indictment mentioned, and dismissed therefrom by the court.

Replication.

That the townships have been accustomed to repair, and ought to repair the highway, and that the owners and occupiers of the said closes have not been accustomed to repair it and issue.

And Robert Chapman, esquire, who prosecutes for our sovereign lord the king in this case, having heard the plea of the said G. W. on the behalf aforesaid by him pleaded, the said John Chapman for our sovereign lord the king saith, that he ought not to be barred from prosecuting the said indictment by reason of any thing in the said plea above alledged, because, protesting that he doth not acknowledge the said plea in manner and form aforesaid pleaded, or any thing therein contained to be true, or in law sufficient in this respect; for replication thereto, he saith, that the inhabitants of the said township of O. and K. F. from time whereof the memory of man is not to the contrary, have repaired and amended, and have used, and have been accustomed to repair and amend, and during all the time aforesaid of right ought to have repaired and amended, and still of right ought to repair and amend, the common highway aforesaid, so as aforesaid being in decay, when and so often as it hath been, is, and shall be necessary; and that from time whereof the memory of man is not to the contrary, the respective owners and occupiers of the five several closes of land lying in the townships of O. and K. F. aforesaid, in the said plea in that behalf described and specified, have not severally

severally repaired and amended, nor have been used and accustomed severally to repair and amend, nor still of right ought severally to repair and amend the respective parts of the said highway so being in decay, which in and by the said plea are in that behalf respectively assigned and specified, when and so often as need hath required, by reason of their respective tenure of the said several lands, in manner and form by and in the said plea alledged; and this he prays may be enquired of by the country, and the said G. W. on the behalf of himself and the rest of the inhabitants of the said townships of O. and K. F. except as in the said plea is above excepted, doth so likewise.

Geo. Wood.

Michaelmas, 15 George III.

THE KING }
 against }
 EALAND. } Indictment sets forth that the defendant, by the name of T. Ealand, late of the parish of Saint Mary-le-bone, in the county of Middlesex, yeoman, on the third day of May, in the thirteenth year of the reign of our sovereign lord George the Third, now king of Great Britain, &c. &c. divers other days and times between that day and the day of the taking this inquisition, with force and arms, at the parish aforesaid, in the county aforesaid, to wit, in a certain yard or backside adjoining to his dwelling-house there situate and near to a certain public street and king's highway there called Oxford-street, and also near to the dwelling houses of divers liege subjects of our said lord the king there likewise situate, in two certain vessels commonly called coppers, unlawfully and injuriously did boil, and cause and procure to be boiled, several large quantities of tripe, entrails, offals, putrid bellies, and paunches of divers beasts, by reason whereof divers great smoke, and foetid, noisome, obnoxious, unwholesome smells, *savours* and odours, stench and stinks, then and at the said divers other days and times, did arise and ascend from the said tripe, entrails, offals, putrid bellies and paunches so boiled as aforesaid, and the air thereby and thereabouts was greatly corrupted, contaminated, and infected, and the said dwelling-houses of the said liege subjects of our said lord the king, situate near the said yard or backside adjoining to the said dwelling house of the said defendant, then and at the said divers other days and times were rendered very unwholesome, offensive, unfit, and improper for habitation, to the great danger and hazard of breeding an infectious and pestilential disorder among the liege subjects of our said lord the king, to the great damage and common nuisance as well of all the liege subjects of our said lord the king in and through the said street and king's highway going, returning, passing, riding, and labouring, as of all the liege subjects of our said lord the king inhabiting and residing near the said yard or backside adjoining to the said dwelling house of the said defendant, and against the peace, &c. : That the said defendant, on the third day of May in the year aforesaid, and divers other days and times between that

Indictment for a nuisance in boiling large quantities of tripe, &c. in Oxford-street.

2d Count.

3d Count.

day and the day of the taking this inquisition, with force and arms, &c. &c. (exactly like the first count, only leaving out what is in italics) that the said defendant, on the third day of May in the year aforesaid, and divers other days and times between that day and the day of the taking this said inquisition, with force and arms at the parish aforesaid, in the county aforesaid, to wit, behind his dwelling house there situate and near a certain public street and king's highway there called Oxford-street, and also near the dwelling houses of divers liege subjects of our said lord the king there likewise situate, unlawfully and injuriously did keep a certain tripe house for the purpose of boiling of tripe, offals, putrid bellies, and stale entrails of beasts therein, and that the said defendant then and at the said other times in the same tripe house did boil, and cause and procure to be boiled, several large quantities of tripe, offals, putrid bellies, and stale entrails of beasts, by reason whereof divers foetid, noisome, and unwholesome smells, savours, and stinks, then and at the said divers other days and times did arise and ascend from the said last-mentioned tripe, offals, and putrid and stale entrails of beasts so boiled as last aforesaid, and the air thereby there and thereabouts was greatly corrupted and infected, and the said dwelling-houses of the said liege subjects of our said lord the king, situate near the said tripe house, then and at the said several other days and times were rendered very unwholesome and unfit for habitation, to the great damage and common nuisance as well of all the liege subjects of our said lord the king in and through the said street and king's highway going, returning, passing, riding, and labouring, as of the liege subjects of our said lord the king inhabiting and residing near the said tripe house, and against the peace, &c.

This indictment was compromised.

For refusing to
execute the of-
fice of constable
in Dowgate
ward though e-
lected.

REX
against

RICHARD MITCHEL.

The jurors for our sovereign lord the king upon their oath present, that the city of London is an ancient city, and that according to the customs thereof the defendant, on the twenty-first day of December 1773, and long before, being an inhabitant and resident within the parish of Allhallows the Great, in the ward of Dowgate, in London aforesaid, and a fit person to execute the office of constable within the said ward, he the defendant in a court of wardmote held for the said ward, in the parish of St. John the Baptist in the said ward, according to the custom of the said city and court aforesaid, on the said twenty-first day of December, in the year aforesaid, before the worshipful Walter Rawlmsen, esquire, then and now one of the aldermen of the said city, and then and yet alderman of the said ward, was lawfully and in due manner, and according to the custom of the city and court aforesaid, then and there elected and chosen to be one of the constables within and for the said ward for one year then next ensuing, by the men inhabiting and resident, paying scot and bearing ~~the~~ within the said ward, whereof defendant on the same

same day and year had notice, yet defendant refused and neglected to execute the office, &c. : That defendant on the same day of ^{2d Count.} December in the year aforesaid, and long before, and always after, until the day of the taking of this inquisition, was an inhabitant and resiant paying scot and bearing lot in the said parish of Allhallows the Great, in the ward and city aforesaid, and that within the said ward there is, and always has been a certain court of our lord the present king and his majesty's predecessors, called the wardmote, held and to be held in every year upon the feast of Saint Thomas the Apostle (unless the same should happen on a Sunday, and in that case the same to be held next following, before the alderman of the ward for the time being, or his deputy, in which court, according to the custom within the said ward during the time aforesaid, in the parish of St. John the Baptist aforesaid, all men inhabiting, resiant, paying scot and bearing lot in the said ward for the time being, have been used and accustomed, and ought by reason of their residence to appear and do their suit in the same court, and that in the said court, according to the custom of the said ward, all men inhabiting and resiant, paying scot and bearing lot for the time being, every year during the whole time aforesaid, were used, accustomed, and ought to appoint and chuse divers persons then inhabiting and resiant, paying scot and bearing lot in the said wards, constables in and for the said ward for preserving the peace, and for the apprehending of rogues, vagabonds, and other suspicious persons within the said ward, for the public good, which persons so appointed were used and accustomed, and ought to hold their office for the year ensuing, and until another person should be elected into that office, and also were used and accustomed, and ought on Monday next after their election at the Guildhall of the said city, in the court there held before the mayor and aldermen of the said city for the time being, to take their corporal oath for the due execution of the office of constable: That the defendant, on the twenty-first day of December in the year aforesaid, at the court of wardmote then held for the said ward, to wit, in the said parish of St. John the Baptist, before the said Walter Rawlinson, then and now one of the aldermen of the said city, and then and yet alderman of the said ward, was lawfully and duly, by men inhabiting and resiant, paying scot and bearing lot within the said ward, according to the custom of the said court and ward, for the time aforesaid used, was elected to the office of one of the constables in and for the said ward, for one whole year then next ensuing, and until another person should be elected into the said office for the preserving of the peace and apprehending of rogues, vagabonds, and other suspicious persons within the said ward for the public good, and that defendant aforesaid, on the same day and year aforesaid, there had notice, and was then and there requested to appear amongst others in the said court held before the mayor and aldermen of the said city, in the Guildhall of the same city, on Monday next after the Feast of the Epiphany then

3d Count.

next following and now past, there to take his corporal oath for the due execution of his office, nevertheless the defendant hath omitted to execute the office, &c.: That defendant on the same day and year aforesaid, and long before, and always after, until the day of taking this inquisition, was and hath been inhabiting and resiant, paying scot and bearing lot within the said parish of Allhallows the Great, in the ward and city aforesaid, and that within the ward aforesaid there is, and always hath been a certain court of our lord the king and his predecessors called the wardmote, held every year upon the Feast of St. Thomas the Apostle (unless the feast happens to be on a Sunday, and in that case to be held on the day next following), before the alderman of the said ward for the time being or his deputy, in which, according to the custom of the ward for all the time last aforesaid used and approved, viz. in the parish and ward aforesaid, all men inhabiting, resiant, paying scot and bearing lot within the said ward for the time being, have been used and accustomed, and ought and were bound by reason of their resiance, to appear and do their suit in the same court; and in the said court, according to the custom thereof and of the said ward, the said men inhabiting, &c. for the time being, yearly during the whole time last aforesaid used and accustomed, and ought to appoint and chuse divers persons then inhabiting and resiant, paying scot and bearing lot when in the said ward, constables within and for the several precincts of the said ward, for preserving the peace and for the apprehending of rogues and vagabonds, and other suspicious persons within the said ward for the public good, which persons so chosen and appointed were and ought to hold the said office for the said year then next ensuing, and until other persons should be elected to their said offices, and also on the Monday next after the Feast of the Epiphany next after their said election, to take their corporal oath for the due execution of their said offices, at the Guildhall of the said city, in the court then held before the mayor and aldermen of the said city for the time being for all the time aforesaid; and that defendant on the same day and year aforesaid, in the court of wardmote then held for the said ward, in the said parish of Saint John the Baptist, before the said W. R. now and then one, &c. was lawfully and in due manner by the men inhabitant, and according to the customs of the said ward and court for the time aforesaid used, elected to the office of constable for the said precincts of the said ward for one year then next ensuing, and until another person should be elected into the said office, for preserving the peace, and for the apprehending of rogues, vagabonds, and other suspicious persons within the said ward for the public good; and that defendant afterwards, to wit, on the same day and year aforesaid, in the ward aforesaid, had notice thereof, and then and there was duly required to appear amongst others in the court then to be held on Monday next after the Feast of the Epiphany then next following and now past, in the Guildhall of the said city, before the mayor and aldermen of the

the said city, to take his corporal oath for the due execution of his office last mentioned; nevertheless the said defendant, little regarding his duty, refused and denied to take his oath for the due execution of office, or to execute the said office mentioned, &c.

The jurors, &c. that the city of London is an ancient city, and that according to the custom of the city, at a court of wardmote held for the ward of Dowgate in London, in the parish of Saint John the Baptist within the said ward, according to the custom of the said city and court, on the twenty-first day of December in the fourteenth year, &c. George the Third, before the worshipful W. R. esquire, then and now one of the aldermen of the said city, and then and yet an alderman of the said ward, the defendant then and long before being an inhabitant and resident in the said ward, to wit, in the parish of Allhallows the Great, in the said ward, and a fit and proper person to execute the office of one of the inquest of the said ward for the wardmote inquest, was lawfully, in due manner, and according to the custom of the said city and court wardmote, then and there elected to be one of the inquest of the wardmote inquest for and within the said ward for one whole year then next ensuing, by men inhabiting and resident, paying scot and bearing lot within the said ward, whereof the said defendant afterwards, on the twenty-first day of December, in the year aforesaid, in the parish and ward aforesaid, had notice, but hath refused to take upon him the office of one of the wardmote inquest: That defendant, on the twenty-first day of December, in the year aforesaid, and long before, and always until after taking the inquest, was inhabiting and resident, paying scot and bearing lot within the parish of Allhallows the Great, within the ward aforesaid, in London aforesaid, and that within the ward of Dowgate there is, and always hath been a certain court of our said lord the king and his predecessors, called the wardmote, held and to be held every year upon the Feast of Saint Thomas the Apostle, unless the said feast be on a Sunday, and in that case upon the day next following the feast, before the alderman of the said ward for the time being, or his deputy, in which said court, according to the custom within the said ward, to wit, in the parish of Saint John the Baptist, in the said ward, all the men inhabiting and resident, paying scot and bearing lot for the time being in the said ward, have been accustomed, and ought, and were bound by reason of their residence, there to appear in the said court, and do their suit in the said court, according to the custom of the said court yearly for all the time aforesaid, the said men inhabiting and resident, paying scot and bearing lot for the time being in the said ward, were used and accustomed, and ought to appoint and chuse divers persons then inhabiting and resident, paying scot and bearing lot in the said ward, to be an inquest in and for the said ward, for enquiring of and prosecuting divers felonies and offences committed

For refusing to serve the office of inquest man for the ward of Dowgate in the city of London.

2d Count.

3d Count.

committed and to be committed within the said ward, for the public good, which persons so chosen and appointed, were used and accustomed, &c. &c.: And that he the said defendant, on the twenty-first day of December, in the year aforesaid, in the said court of wardmote then held for the said ward, in the said parish of Saint John the Baptist, in the ward of Dowgate, in London aforesaid, and before the said W. R. then and now one of the aldermen of the said city, and then and yet alderman of the said ward, lawfully and duly by men inhabiting and resiant, paying scot and bearing lot within the said ward, according to the custom of the said court and ward for the time of, &c. used, was elected into the office of one of the inquest last mentioned for one whole year then next ensuing; And that defendant afterwards, on the twenty-first day of December aforesaid, in the parish last aforesaid, and in the ward aforesaid, had notice thereof, and was then and there required to appear amongst others in the court holden before the mayor and aldermen of the said city of London on Monday next after the Feast of the Epiphany then next following, to make due presentment of all offences in that behalf presentable in the said ward for the public good; nevertheless the defendant neglected to appear and make presentment, &c.: That defendant, on the twenty-third day of December, in the fourteenth year aforesaid, and long before, and always after, until the day of taking this inquisition, was inhabiting and resiant, paying scot and bearing lot within the said parish of Allhallows the Great, and in the ward and city aforesaid, there is and always hath been a certain court of our said lord the king and his predecessors, called the wardmote, held and to be held in manner last aforesaid, in which said court, according to the custom thereof within the said ward for all the time aforesaid used and approved, to wit, in the said parish of Saint John the Baptist, in the ward aforesaid, all the men inhabiting and resiant, paying scot and bearing lot for the time being in the said ward, have been used and accustomed, and ought and were bound by reason of their residence there, to appear in the said court, and to do their suit there and in the said court, according to the custom thereof yearly, the said men inhabiting, and were used and accustomed, and ought to appoint and chuse divers persons then inhabiting in the said ward, paying scot and bearing lot in the said ward, jurymen of the said several precincts of the said ward, to make an inquest in and for the ward, for enquiring of and prosecuting divers defaults and offences committed and to be committed in the said ward, for the public good, which persons so appointed were used and accustomed, and ought on the Monday after the Feast of the Epiphany next after their said election, to make due presentment of all offences in that behalf presentable in the said ward for the public good, at the Guildhall of the said city, in the court there held before the mayor and alderman for the time being, for all the time aforesaid, and that the defendant, on the twenty-first day of December, in the said year, in the court aforesaid, then held for the said ward in the parish of Saint John the Baptist, in the ward and city aforesaid,

aforesaid, before the said W. R. then and now one, &c. according to the custom of the said ward and court for all the time aforesaid, was duly elected into the office of one of the wardmote inquest for the precinct called the first precinct in the said ward, for one whole year then next ensuing, and the said defendant, on the said twenty-first day of December, in the year aforesaid, at London aforesaid, in the parish and ward aforesaid, had notice thereof, and was required to appear at the mayor's court held for the said city on Monday next after the Feast of the Epiphany then next following, to make presentment of all offences in that behalf presentable within the said ward for the public good, nevertheless defendant neglected to appear and make presentment, &c. : That defendant on the said twenty-first day of December, in the year aforesaid, and long before, &c. was inhabiting and residing within the parish of Allhallows the Great, in the ward aforesaid; and that defendant on the same day, at a court of wardmote held for the said ward in the parish of Saint John the Baptist aforesaid, was duly elected into the office of one of the wardmote inquest men for the said ward, for one year then next ensuing, for enquiring of and prosecuting the several offences committed within the said ward, whereof defendant on the same day, &c. had notice; nevertheless defendant omitted and refused to execute the office, &c.

4th Count

MIDDLESEX, to wit The jurors for our lord the king upon their oath present, that in the term of Easter in the fifteenth year of the reign of our present sovereign lord George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, a certain plea of trespass on the case was depending in the court of our said lord the king, before the king himself, the said court then and still being at Westminster in the said county of Middlesex, between Joseph Hitson and Evan Thomas, late of B. in the county of B shopkeeper, wherein the said J. K. was plaintiff, and E. T. was defendant, for the non-performance of certain promises and undertakings made by the said E. T. to the said J. K. to the great damage of the said J. K. of five hundred and sixty six pounds, as the said, &c. in which said plea the said E. T. had before that time been arrested and held to bail for the sum of five hundred pounds: And the jurors aforesaid, upon their oath aforesaid, further say, that whilst the said plea was depending in the court of our said lord the king, before the king, at Westminster aforesaid, and in the said term of Easter in the fifteenth year aforesaid, that is to say, on the eighth day of May, in the fifteenth year of the reign of our lord the now king, Matthew Temple, late of , came into the said court of our said lord the king, before the king himself, the said court then and still being at Westminster aforesaid, in the said county of Middlesex, and then and there offered himself to be, and became one of the bail of the said E. T. in the plea aforesaid, and thereupon the said

For perjury in justifying bail.

M. Temple was then and there in due manner sworn in and by the said court to make true answer to all such questions as should be demanded of him the said M. Temple, the said court then and there having sufficient and competent authority to administer such oath to the said Matthew : And the jurors aforesaid, upon their oath aforesaid, do further say, that the said M. Temple, so being sworn as aforesaid, then and there, to wit, on the said eighth day of May, in the fifteenth year aforesaid, at Westminster aforesaid, in the said county of Middlesex, in the said court of our said lord the king, before the king himself, the said court then and still being at Westminster aforesaid, in the said county of Middlesex, was interrogated concerning the circumstances and property of him the said M. Temple, and thereupon he the said M. Temple, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, in order to impose upon the said court, to prevent the circumstances and property of him the said Matthew, and of his then, and of his then and former situation in life, on the said eighth day of May, in the fifteenth year aforesaid, at Westminster, in the said county of Middlesex, and before the said court of our said lord the king, before the king himself, at Westminster aforesaid, upon his corporal oath aforesaid did say and depose, that he the said M. Temple had an estate in the parish of W. in the county of Berks, which said estate was then in the possession of J. Temple, the father of him the said M. Temple, and that the said J. Temple rented the said estate of him the said M. Temple, and that he the said M. Temple never lived as a servant with Mr. Evers (meaning one Evers, of), whereas in truth and in fact, at the time of taking of the said oath, the said J. Temple did not rent any estate in the parish of W. aforesaid of the said M. Temple, and whereas in truth and in fact the said M. T. at the time of taking of the said oath as aforesaid, did live as a servant with the said Mr. Evers ; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said M. T. on the said eighth day of May, in the fifteenth year aforesaid, at Westminster aforesaid, in the county of Middlesex, in and before the said court of our lord the king, before the king himself, the said court then and still being at Westminster aforesaid, in the said county of Middlesex, upon his oath aforesaid, falsely, wickedly, voluntarily, and by his own act and consent did commit wilful and corrupt perjury, to the great displeasure of Almighty God, to the evil and pernicious example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

For perjury in justifying bail, viz. saying that he had not been bail for another person, when in fact he had.

MIDDLESEX, to wit. The jurors for our lord the king upon their oath present, that on the tenth day of November, in the thirtieth year of the reign of our sovereign lord George the Third, by the grace, &c. a certain action was depending in the court of our said lord the king, before the king himself, at Westminster, in the said county of Middlesex, between William Price

Price and William Stafford, defendant, and that afterwards, to wit, on the tenth day of November in the year aforesaid, at the parish of Saint Dunstan in the West, in the ward of Farringdon Without, in the city of London, Peter Ferrell, and Joseph Banks, came before sir M. Forster, knight, then and yet being one of the justices of our said lord the king assigned to hold pleas before the king himself, and they the said P. F. and J. B. by the names and additions of P. F. of St. Martin's Lane, in the parish of Saint Martin in the Fields, dealer and chapman, and J. B. of King's Head Court, Drury-lane, cutler, did before the said sir M. Forster enter into a recognizance of bail for the said W. S. the defendant aforesaid, in the action above mentioned, at the suit of the said W. S.: And the jurors aforesaid, upon their oath aforesaid, do further present, that afterwards, to wit, on the twenty-second day of November in the year aforesaid, the said P. F. late of the parish of Saint Martin in the Fields, in the said county of Middlesex, labourer, did appear in his own proper person in the court of our said lord the king, before the king himself, at Westminster aforesaid, in the said county of Middlesex, as one of the bail for the said W. S. in the said action, in order to justify himself as such bail, and to be allowed and approved of by the said court as one of the bail for the said W. S. in the said action, and he the said P. F. was then and there on that occasion, in the court aforesaid, duly sworn, and took his corporal oath upon the Holy Gospel of God, that he the said P. F. should true answer make to all such questions as should be demanded of him by the said court, the said court then and there having sufficient power and authority to administer the said oath to the said P. F. in that behalf, and that the said P. F. being so sworn as aforesaid, was then and there in the court aforesaid, upon the occasion aforesaid, asked if he (meaning the said P. F.) was not bail for one Thomas Marson, at the suit of T. Budd, to which the said P. F. not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, did then and there in the court aforesaid, upon his oath aforesaid, falsely, wickedly, wilfully, and corruptly answer, say, depose, and swear, that he was not, and that the said P. F. being then and there upon the occasion aforesaid, in the court aforesaid, upon his oath aforesaid asked this question, was not you (meaning the said P. F.) bail for Thomas Marson at the suit of T. Budd, he the said P. F. in the court aforesaid, upon his oath aforesaid, to the said last-mentioned question did falsely, wickedly, wilfully, and corruptly make this answer, No, I (meaning himself the said P. F.) never was; and that the said P. F. being then and there in the court aforesaid, upon the occasion aforesaid, asked if he was not that bail with J. Banks (meaning the said J. B.) for T. Marson, at the suit of T. Budd, he the said P. F. did then and there in the court aforesaid, upon his oath aforesaid, to the said last-mentioned question falsely, wickedly, wilfully, and corruptly answer, say, depose, and swear, that he (meaning himself the said P. F.) never was bail with J. Banks (meaning the said J. B.) in other action, than this (meaning the said action then depending

depending between the said W. P. and W. S.), and that the said P. F. was then and there upon the action aforesaid, in the court aforesaid, asked this further question, Was not you (meaning the said P. F.) bail with Banks (meaning the said J. B.) for T. Marlon, at the suit of J. Budd? To which said last-mentioned question he the said P. F. did then and there in the court aforesaid, on his oath aforesaid, falsely, &c. answer, say, depose, and swear thus, I (meaning himself the said P. F.) never was bail with Banks (meaning the said J. B.) in any other action than this (meaning thereby that the said P. F. never was bail with the said J. Banks in any other action than this said action then depending in the said court between the said W. P. and the said W. S. and the said P. F. being then and upon the action aforesaid, in the court aforesaid, asked this further question, Was not you (meaning the said P. F.) bail for T. Marlon, at the suit of T. Budd, before any of the judges of this court (meaning any of the justices of our said lord the king assigned to hold pleas before the king himself), he the said P. F. did there in the court aforesaid, upon his oath aforesaid, to the said last mentioned question falsely, &c. answer, say, depose, and swear thus, No, I (meaning himself the said P. F.) never was: and the said P. F. being then and there in the court aforesaid, upon the occasion aforesaid, asked this further question, Was not you (meaning the said P. F.) bail for T. Marlon at the suit of T. Budd, before sir M. Forster (meaning the said sir M. Forster, then and yet one of the justices of our said lord the king, assigned to hold pleas before the king himself), he the said P. F. did then and there in the court aforesaid, upon his oath aforesaid, to the said last-mentioned question falsely, wickedly, &c. answer, say, depose, and swear thus, No, I (meaning himself the said P. F.) never was; whereas in truth and in fact, at the time when he the said P. F. did so take his said oath, and answer, say, depose, and swear, in form aforesaid, he the said P. F. had been bail for the said T. Marlon, at the suit of the said T. Budd, and whereas in truth and in fact, at the time when he the said P. F. did so take the said oath, and answer, say, depose, and swear, in form aforesaid, he the said P. F. was bail for the said T. Marlon, at the suit of the said J. Budd, and whereas in truth and in fact, at the time when the said P. F. so took his said oath, and did answer, say, depose, and swear, in form aforesaid, he the said P. F. had been bail with the said J. B. for T. Marlon, at the suit of T. Budd, and whereas in truth and in fact, before the said time when the said P. F. so took his said oath, and did answer, say, depose, and swear in form aforesaid, he the said P. F. had been bail for T. M. at the suit of T. Budd, before the said sir M. Forster, one of the justices of our said lord the king, assigned to hold pleas before the king himself; and whereas in truth and in fact before the said time when the said P. F. did so take his said oath, and answer, say, depose, and swear in form aforesaid (that is to say, on the tenth day of November, in the year aforesaid, he the said P. F. did, together with the said J. B. at the parish of Saint Dunstan in the West, in

the said ward of Farringdon Without, in the said city of London, enter into a certain recognizance of bail before the said sir M. F. knight, then and yet one of the justices of our said lord the king, assigned to hold pleas before the king himself, for T. M. the defendant, in a certain suit depending in the said court of our said lord the king before the king himself, between T. Budd, plaintiff, and the said T. M. the defendant: And so the jurors aforesaid, upon their oath aforesaid, do further present, that the said P. F. on the twenty-second day of November, in the year aforesaid, at Westminster aforesaid, in the said county of Middlesex, upon his oath aforesaid, in the court aforesaid, in manner and form aforesaid, falsely, wickedly, wilfully, and corruptly did commit wilful and corrupt perjury, to the great displeasure of Almighty God, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity, &c.

GLAMORGANSHIRE. Be it remembered, that at the Presentment of general quarter sessions of the peace of our lord the king, holden at a bridge at the Cardiff for the said county, on Tuesday, the fifteenth day of January, in the twenty-eighth year of the reign of our sovereign lord George the Third, now king of Great Britain, &c. before the reverend Gervase Powell, clerk, William Bennet, and William Price, esquire, and others, justices of our said lord the king in the said county, and also to hear and determine divers felonies, trespasses, and misdemeanors committed within the said county, it is presented by the oath of John Matthew, Edward Jehmichs, Evan David, Richard Jones, Miles Spickett, Robert Spickett, John Jenkins, Robert Jenkins, Edward John Roper, Thomas Jenkin Water, Philip Minnet, Reynold James, William Lewis, Lewis Edward, John Lewellin, good and lawful men of the said county then and there sworn and charged to enquire for our said lord the king and the body of the said county, as followeth (that is to say) Glamorganshire aforesaid: The jurors for our sovereign lord the king upon their oath present, that a certain bridge over the river Tawe, commonly called Grispellwch bridge, lying and being in the several parishes of Llanfawr and Llongefolach, in the said county of Glamorgan, in the king's common highway there leading from the market town of , in the county of Glamorgan, to the market town of Llandilafawrh, in the county of Glamorgan, for and during twenty years last past being a common king's highway for all the liege subjects of our said lord the king, with their horses, carts, and carriages to go, pass, ride, and travel at their pleasure, on the first of January A. D. 1787, was, and continually from thenceforth hitherto hath been, and still is in great decay, broken down, and ruinous, so that the liege subjects of our said lord the king upon or over the said bridge, with their horses, carts, and carriages, could not and cannot go, pass, ride, and travel, without great danger, to the grievous damage and nuisance of all the liege subjects of our said lord the king upon

upon and over the said bridge going, passing, riding, and travelling, against the peace of our said lord the king, his crown and dignity; and that the inhabitants of the county of Glamorgan aforesaid, the common bridge aforesaid (so as aforesaid being in decay) ought to repair and amend when and so often as it shall be necessary: And the jurors aforesaid, on their oath aforesaid, further present, that a certain other public and common bridge over the river Tawe, commonly called Gnispenllwch bridge, lying and being in the said county of Glamorgan, in the said king's highway leading from the said market town of , in the said county of Glamorgan, to the said market town of Landilofawr, in the said county of Carmarthen, at the several times hereinafter-mentioned and now being a common king's highway for all the liege subjects of our said lord the king, with their horses, carts, and carriages to go, pass, ride, and travel, without great danger, to the grievous damage and nuisance of all the liege subjects of our said lord the king, upon and over the said bridge going, passing, riding, and travelling, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, on their oath aforesaid, further present, that the inhabitants of the said county of Glamorgan, the said last-mentioned public and common bridge (so as last aforesaid being in decay, broken down, and ruinous) ought to repair and amend when and so often as it shall be necessary.

Certiorari to remove an indictment into B. R. from Wilts assizes.

George the Third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. to our justices assigned to deliver our gaol in and for our county of Wilts, and to every one of them, greeting: We being willing, for certain reasons, that all and singular indictments, of whatsoever felonies whereof Curtis King is indicted before you (as is said), be determined before us, and not elsewhere, do command you, and every of you, that you, or one of you, do send under your seals, or the seal of one of you, before us, on the morrow of the Holy Trinity, wheresoever we shall then be in England, all and singular the said indictments, with all things touching the same, by whatsoever name the said Curtis King is called in the same, together with this writ, that we may further cause to be done what of right and according to the law and custom of England we shall see fit to be done: Witness, William lord Mansfield, at Westminster, the first June, in the twelfth year of our reign.

By the court.

BURROW.

Caption.

WILTS. Be it remembered, that at the session of oyer and terminer, &c. &c. (stating the caption) by the oath of A. B. &c. the grand jury, good and lawful men, &c. &c. it is presented as follows, that is to say, Wilts: The jurors for our lord the king

Indictment for a forcible entry against twelve.

upon their oath present, that Edward Poore, the elder, late of the parish of Rushall, in the county of Wilts, esquire, Edward Poore,

Poore, the younger, of the same place, esquire, John Poore, late of the same place, gentleman, William Davis, late of the same place, carpenter, Stephen Tucker, ditto, ditto, James Sloper, ditto, yeoman, James Rivers, ditto, ditto, Robert Gilbert, ditto, ditto, and Jane Gilbert Sarah Rebeck, wife of James Rebeck, ditto, farmer, Elizabeth Davis, ditto, widow, Thomas Tarrant, ditto, yeoman, John Burges, ditto, ditto, and Edward Plack, ditto, ditto, on the tenth July, in the twelfth year of the reign of our sovereign lord George the Third, king of Great Britain, &c. with force and arms, at the parish aforesaid, in the county aforesaid, in and upon all that toft whereon a messuage ^{Entering on pre-} or dwelling house lately stood, called or known by the name of ^{mises,} Bannings House, with the piece or plot of garden ground thereto belonging, with the appurtenances, situate, lying, and being in the parish of Bushell aforesaid, and near adjoining to a cottage or tenement now in the possession of Abraham White, which said toft and piece or plot of garden ground contain by estimation ten acres, be the same more or less, being the freehold and inheritance of the said Abraham White, and then and there being in the possession of the said Abraham White, unlawfully, violently, and forcibly did enter, and him the said Abraham White, then and there with force and arms unlawfully and forcibly of the said toft and piece or plot of garden ground did disseise, expel, and ^{and disseising,} amove, and the said Abraham White with force and arms unlawfully and forcibly disseised, expelled, and amoved from the said tenth of July, in the year aforesaid, until the day of the taking this injunction, with force and arms unlawfully and forcibly there did keep out, and still do keep out, to the great damage ^{and keeping out.} of the said Abraham White, in contempt of the laws of our sovereign lord the king, against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided: And the jurors aforesaid, upon ^{ad Counse.} their oath aforesaid, further present, that they the said Edward P. senior, Edward P. junior, &c. &c. on the said tenth July, in the twelfth year aforesaid, with force and arms at the parish aforesaid, in the county aforesaid, with strong hand, forcibly and unlawfully did enter in and upon that toft and piece of garden ground, containing by estimation ten acres, with the appur- ^{Exact descrip-} tenances situate, lying, and being in the ^{tion of the pre-} in the county ^{mises.} aforesaid, and then and there being in the lawful, quiet, and peaceable possession of the said Abraham White, so accepted, removed, and put out from the possession of the said toft and piece of garden ground, with force and arms then and continually from the said tenth July, in the year aforesaid, until the day of taking this inquisition, with strong hand forcibly and unlawfully did keep out, to the great damage of the said Abraham White, and against the peace of our said lord the king, his crown and dignity.

Whereupon

Lent, 1773.

Plead guilty.

One of the defendants, sheriff since indictment, found writ directed to the coroner.

Whereupon the sheriff of the said county is commanded that he do not omit, by reason of any liberty in his bailiwick, but that he the said Edward P. senior, &c. &c. cause to come before the justices of our said lord the king at the next sessions of oyer and terminer of our said lord the king to be holden for the said county, to answer our said lord the king touching and concerning the premises aforesaid, at which next sessions of oyer and terminer of our said lord the king, holden at New Sarum aforesaid in and for the said county, on Saturday the sixth of March, in the thirteenth year of the reign, &c. (insert the caption of Lent assizes, 1773) for this time to hear and determine, &c. the said John Poore (and the rest), in their proper persons come, and having heard the indictment read severally say, that they are guilty of the premises in the indictment aforesaid above specified in manner as there charged against them, and they put themselves on the mercy of our said lord the king; but because the said justices last above named, &c. now here, are not yet advised what judgment to give in the premises aforesaid, a day is therefore given, as well to John Follett, esquire, clerk of the assizes and clerk of the crown of the said county, who prosecutes for our said lord the king in this behalf, as to the said John Poore (and the rest) until the next session of oyer and terminer of our said lord the king to be holden for the said county, and at the same session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid in and for the said county, on Saturday the sixth of March, in the thirteenth year aforesaid, cometh the said Edward Poore the elder, in his proper person; and the said Edward Poore the elder, having heard the said indictment read, saith that he is not guilty, and thereupon he puts himself upon the country, and the said John Follet, who prosecutes for our said lord the king in this behalf doth likewise; and at the same session of oyer and terminer last above mentioned, the said Edward Poore the younger doth not come, wherefore the sheriff of the said county is commanded as at first, that he do not omit by reason of any liberty in his bailiwick, but that he cause the said Edward Poore the younger to come before the justices of our said lord the king at the next sessions of oyer and terminer of our lord the king, concerning the premises aforesaid, and because the said Edward Poore the elder, since the finding of the indictment aforesaid, hath been elected and appointed sheriff of the county aforesaid, and now is sheriff of the county aforesaid, the coroners of the said county are commanded that they do not omit by reason of any liberty in the county of Wilts aforesaid, but that they cause to come before the justices of our said lord the king, at the next session of oyer and terminer of our said lord the king to be holden for the said county, twelve good and lawful men of the neighbourhood of the parish of Buschall aforesaid, by whom the truth of the matter may be the better known, and who have no affinity to the said Edward Poore the elder, to recognise upon their oath whether the said Edward Poore the elder is guilty of the premises

in

in the indictment aforesaid above specified or not, as well the said John Follett, who prosecutes for our said lord the king in this behalf, as the said Edward Poore the elder, have put themselves upon the same jury, the same day is given as well to the said John Follet, who as to the said Edward Poore, senior, at which next session of oyer and terminer of our said lord the king, holden at New Sarum aforesaid, in and for the said county of Wilts, on Saturday the thirty-first of July, in the said thirteenth year of the reign of our said lord the king, before the honourable sir Richard Adams, knight, one of the barons of our said lord the king of his court of exchequer, the said sir William Henry Ashurst, and others their fellow justices of our said lord the king, assigned, &c. &c. &c. (inserting caption of summer assizes 1773) and determine, come as well the said John Follett, who, &c. as the said Edward P. Senior, in his proper person; and the jurors the gentlemen coroners of the said county of Wilts for this purpose impannelled and returned, eleven come, who being chosen, tried, and sworn to speak the truth concerning the premises aforesaid, say upon their oath that the said Edward Poore the elder is, &c.

WILTSHIRE. The jurors for our lord the king upon their oath present, that by an act of parliament made in the second year of the reign of their late majesties king William and queen Mary, entitled, “An Act to prohibit the covering of Houses and Buildings with Thatch or Straw in the Town of Marlborough, in the county of Wilts,” reciting, that whereas of late years several sudden and dreadful fires had happened within the said town, and particularly two fires in the month of April, A. D. 1690, whereby great numbers of houses were consumed and burnt down, or otherwise destroyed or demolished, which fires were occasioned, and the damage thereby done much increased by reason of houses and other buildings covered with thatch and straw: for preventing of the like damages and mischief for the future, it is thereby amongst other things enacted, that all houses and other buildings burnt or demolished in the then late fires in the said month of April which should be rebuilt, and all other outhouses and buildings which should at any time thereafter be rebuilt within the said town, and also every house, outhouse, and building, then belonging within the said town, which should thereafter be new covered, should be covered with lead, slate, or tile, and not otherwise, and that houses, outhouses, and buildings thereafter to be built or new covered, which are thereby declared to be common and public nuisances, and should be proceeded against and dealt with accordingly: And the jurors aforesaid, upon their oath aforesaid, do further present, that John Coleman, late of the town of Marlborough aforesaid, carrier, not regarding the aforesaid act of parliament, after the making the said act of parliament, to wit, on the day of in the

Indictment on 2. W. and M. to prohibit the covering thatch houses in Marlborough, c. 3. of the private acts, act recited.

1st Count, for covering with thatch an house rebuilt since the act, and within the town.

4d Count, with-
in the town at
the time of mak-
ing the act.

the year of the reign of his present majesty, at Marlborough aforesaid, in the said county of Wilts, did cover, and caused to be new covered a certain house which, after the making of the said act of parliament, was rebuilt within the said town of Marlborough with straw and thatch, and not with lead, slate, or tile, contrary to the form of the said act of parliament, and to the common and public nuisance of all the liege subjects of our said lord the present king inhabiting and residing within the said town of Marlborough, and against the peace of our said lord the present king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. C. not regarding the aforesaid act of parliament, after the making of the said act of parliament, to wit, on the said day of

3d Count, with-
in the town at
the time of co-
vering.

in the said year of the reign of his present majesty, at Marlborough aforesaid, in the said county of Wilts, did new cover and cause to be new covered a certain other house at the time of making the said act of parliament, being within the said town of Marlborough, with straw and thatch, and not with lead, slate, or tile, contrary to the force of the said act of parliament, and to the common and public nuisance of all the liege subjects of our said lord the king inhabiting and residing within the said town of Marlborough, and against the peace of our lord the present king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. C. not regarding the aforesaid act of parliament, to wit, on the said

day of in the said year of the reign of his present majesty, at Marlborough aforesaid, in the said county of W. did new cover, and cause to be new covered, a certain other house, then standing within the said town of Marlborough, with straw and thatch, contrary to the force of the said act of parliament, and to the common and public nuisance, &c. &c. against the peace, &c.

Indictment up-
on 18. Geo. 2.
c. 34. s. 8.

1st Count, that
A. B. on 4th
December,
A. B. played at
backgammon
with C. D. and
at one time and
sitting won of
the said C. D.
above 10l.

(a) Not neces-
sary, 2 Hawk.
Pl. Cor. 343.

(b) Not neces-
sary, 2 Hawk.
Pl. Cor. 355.

CITY OF EXETER, and county of the same city, to wit. The jurors for our sovereign lord the king upon their oath present, that A. B. of the said city of Exeter, in the county of the same city, wool stapler, being a person of ill name, fame, and dishonest conversation, on the fourth day of December, in the twentieth year of the reign of our sovereign lord George the Third, king of Great Britain, &c. with force and arms, at the parish of Saint Martin, in the said city of Exeter, in the county of the same city, and not within any of the palaces of our said lord the king of Saint James or Whitehall, nor within any other royal palace of our said lord the king was then actually residing, did play with dice at a certain game called backgammon with one C. D. and that the said A. B. then and there with force and arms, by playing at the said games with the said C. D. as aforesaid, did at one time and sitting unlawfully win of the said C. D. above the sum of ten pounds at the said games,

to wit, the sum of five thousand and seventy-four pounds thirteen shillings, of lawful money of Great Britain, against the form of the said statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, further present, that the said A. B. being a person of ill name, fame, and dishonest conversation, on the fourth and fifth days of December, that is to say, in the evening or the night of the fourth, and on the morning of the fifth day of December, in the twentieth year aforesaid, with force and arms at the said parish of Saint Martin, in the said city of Exeter, in the county of the same city, and not within any of the palaces, &c. &c. did play with dice at the aforesaid game called backgammon with the said C. D. and that the said A. B. then and there with force and arms, by playing at the said game with the said C. D. as aforesaid, did at one time and sitting unlawfully and unjustly win of the said C. D. above the sum of ten pounds, to wit, the sum of five thousand and seventy-four pounds thirteen shillings of lawful money of Great Britain, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that the said A. B. being a person of ill fame and dishonest conversation, on the fourth day of December, in the twentieth year aforesaid, with force and arms at the said parish of, &c. and not within, &c. did play with dice at the aforesaid game called the backgammon with the said C. D. as aforesaid, did within the space of twenty four hours unlawfully and unjustly win of the said C. D. above the sum of twenty pounds at the said game, to wit, five thousand and seventy-four pounds thirteen shillings, of lawful money of Great Britain, against the form of the statute in that case made and provided, and against the peace of our said lord the king, his crown and dignity: And the jurors aforesaid, upon their oath aforesaid, do further present, that they the said A. B. being, &c. on the fourth and fifth days of December, that is to say, in the evening and night of the fourth, and on the morning of the fifth day of December, in the twentieth year aforesaid, at the said parish aforesaid (as in the count immediately preceding): And the jurors aforesaid, upon their oath aforesaid, do further present, that the said A. B. being, &c. on the sixth day of December aforesaid, in the twentieth year aforesaid, with force and arms, at the parish aforesaid, and not within, &c. did play with dice at the said game called backgammon with the said C. D. and that the said A. B. then and there with force and arms, by playing, &c. did at one time and sitting unlawfully and unjustly win of the said C. D. above the sum of ten pounds at the said game, to wit, the sum of three thousand five hundred and eighty-seven pounds, seventeen shillings, of lawful money of Great Britain, against the form of the statute, &c.: And the jurors aforesaid, upon their oath aforesaid, further

2d Count, that the said A. B. on 4th and 5th December, to wit, on the evening and night of the 4th, and on the morning of the 5th, 20th A. R. played at backgammon with C. D. and at one time and sitting did win of said C. D. above 10l.

3d Count, that the said A. B. on 4th December, did play at backgammon with C. D. and within twenty-four hours did win above 20l.

See 18. Geo. 2. c. 3. s. 8.

4th Count, that the said A. B. on the 4th and 5th December, to wit, in the evening and night of the 4th, and on the morning of the 5th December, 20th A. R. did play, &c. as in 3d Count.

5th Count, that the said A. B. on 6th December, did play at backgammon with C. D. and did at one time and sitting win of said C. D. above 20l.

6th Count, that said A. B. on 6th December, did play at backgammon with C. D. and did at one time and sitting win of said C. D. above 20l.

7th Count, said C. D. 6th December, did play at backgammon with E. F. and said A. B. at one time and sitting did win of said C. D. by betting on the side of E. F. 10l.

8th Count, said C. D. 6th December, did play at backgammon with E. D. and did within 24 hours win of C. D. above 20l.

9th Count, that C. D. 6th December, did play at backgammon with E. F. and said A. B. did at one time and betting win on side of E. F. above 10l.

10th Count, said C. D. on, &c. as before, &c. said A. B. did within twenty-four hours win of the said C. D. by betting on said E. F. above 20l.

11th Count, said A. B. on 6th December, did play at backgammon with said C. D. and said A. B. did at one time and sitting win

present, that the said A. B. being, &c. on the sixth day of December aforesaid, &c. did within the space of twenty-four hours unlawfully and unjustly win of the said C. D. above the sum of twenty pounds at the said game, to wit, the sum of three thousand five hundred and eighty-seven pounds seventeen shillings of lawful money of Great Britain, against the form of the statute, &c. : And the jurors aforesaid, upon their oath aforesaid, do further present, that the said C. D. on the sixth day of December aforesaid, in the twentieth year aforesaid, at the parish aforesaid, in the said city and county of the said city, and not within, &c. did play at dice at the aforesaid game called backgammon with one E. F. and that the said A. B. being a person of, &c. with force and arms, then and there at one time and sitting did unlawfully and unjustly win of the said C. D. by his the said A. B. then and there betting on the side of him the said E. F. who then and there played with the said C. D. as aforesaid, above the sum of ten pounds, to wit, the sum of one thousand and fifty pounds of lawful money of Great Britain, against the form, &c. : And the jurors aforesaid, upon their oath aforesaid, do further present, that the said C. D. on the sixth day, &c. at the parish, &c. and not within, &c. did play, &c. with the said E. F. : And that the said A. B. being, &c. with force and arms, did within the space of twenty-four hours, unlawfully and unjustly win of the said C. D. by his the said A. B. then and there betting on the side of him the said E. F. who then and there played with the said C. D. as aforesaid, above the sum of twenty pounds, to wit, the sum of one thousand and fifty pounds of lawful money of Great Britain, against the form, &c. : And the jurors upon their oath aforesaid do further present, that the said C. D. on the sixth day, &c. at the parish, &c. and not within, &c. did again play with dice at the aforesaid game called backgammon with the said E. F. and that the said A. B. being, &c. did then and there, at one time and sitting, unlawfully and unjustly again win of the said C. D. by his the said A. B. betting on the side of him the said E. F. who then and there played with the said C. D. as last aforesaid, above the sum of ten pounds, to wit, another sum of one thousand and fifty pounds, of lawful money of Great Britain, against the form, &c. : And the jurors, &c. do further present, that the said C. D. on, &c. did again play with dice at the aforesaid game, &c. with the said E. F. and that the said A. B. being, &c. did within the space of twenty-four hours unlawfully and unjustly again win of him the said E. F. who then and there, &c. above the sum of twenty pounds, to wit, another sum of one thousand and fifty pounds, of lawful money of Great Britain, against, &c. : And the jurors aforesaid, upon, &c. further present, that the said A. B. being, &c. on the 6th day, &c. with force and arms, at the parish aforesaid, and not within, &c. did play with dice at the said game called backgammon with the said C. D. and that the said A. B. then and there with force and arms, by playing at the said game with the said C. D. as aforesaid, did at one time and sitting unlawfully and

unjustly

unjustly win of the said C. D. above the sum of ten pounds at the said game, to wit, the sum of one thousand seven hundred and eighty-five pounds, of, &c. against, &c. his crown and dignity.

MIDDLESEX. Be it remembered, that at the general session of the peace of our lord the king, holden in and for the county of Middlesex, at the session house for the said county, on Tuesday the twenty-second day of May, in the twenty-seventh year of the reign of our sovereign lord George the Third, king of Great Britain, &c. before William Mainwaring, Thomas Cogan, David Walker, David Wilmot, and others their fellow justices of our said lord the king assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the same county, by the oath of John Peter and others, good and lawful men of the county of Middlesex, then and there sworn and charged to enquire for our sovereign lord the king for the body of the said county, it is presented in manner and form following, viz. Middlesex, The jurors of our lord the king upon their oath present, that John Bewley, late of New Inn, in the parish of St. Clements Danes, in the county of Middlesex, gentleman, on the twenty-fifth day of April, in the twenty-seventh year of the reign of our sovereign lord George the Third, king of Great Britain, &c. with force and arms at New Inn aforesaid, in the parish aforesaid, in the county aforesaid, in and upon one William Yeates, gentleman, in the peace of God and our lord the king then and there being, unlawfully did make an assault, and the said John Bewley then and there unlawfully, violently, and injuriously did seize and take from and out of the custody of him the said William, and against his will and consent, a certain receipt, bearing date the same day and year aforesaid, purporting to be a receipt of one Valentine Winckley, that did acknowledge to have received of Mr. Richard Smith, by the hands of Thomas Highfield, three pounds eighteen shillings for a debt due to him the said Valentine Hinckley, in full of all demands, and the same receipt the said John Bewley then and there unlawfully and wilfully did keep in his possession, and other wrongs to the said William Yeates then and there unlawfully did, to the great damage of the said William Yeates, and against the peace of our said lord the king his crown and dignity: And the jurors aforesaid upon their oath aforesaid, do further present, that the said John Bewley, on the said twenty-fifth day of April in the year aforesaid, with force and arms, at New Inn aforesaid, in the parish aforesaid, in the county aforesaid, in and upon the said William Yeates, in the peace of God and our said lord the king then and there being, unlawfully did make an assault, and him the said William Yeates then and there unlawfully did beat, wound, and ill treat, so that his life was despaired of, and other wrongs to the said William Yeates then and there unlawfully did, to the great damage of the said William Yeates,

Indictment for making an assault, and violently seizing and taking away a receipt for a debt.

Justices.

Grand jury.

Indictment.

2nd Count, for common assault.

Command to Yeates, and against the peace of our said lord the king, his crown the sheriff that and dignity; wherefore the sheriff of the said county of Middlesex is commanded that he do not admit by reason of any liberty he causes the defendant to come in his bailiwick, but that he cause the said John Bewley to come at the next general quarter sessions before the justices of our said lord the king assigned in form aforeaid, at the next general quarter session of the peace to be holden for the said county, to answer to our said lord the king touching and concerning the premises in the indictment aforeaid above specified, at which said next session, to wit, the general quarter session of the peace of our said lord the king, holden in and for the county of Middlesex, at the session house for the county, on Monday the ninth day of July, in the twenty-seventh year of the reign of our sovereign lord George the Third, king of Great Britain, &c. before William Mainwaring, John Spiller, David Walker, Thomas Cogan, esquires, and others their fellow justices of our said lord the king assigned to keep the peace in the county aforeaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the

Arraignment.

Plea not guilty.

Issue.

Venue.

the said John Bewley in his own proper person, and having heard the said indictment read, saith he is not guilty thereof, and of this he putteth himself upon the country; and Henry Collingwood Selby, esquire, clerk of the peace of the county aforeaid, who prosecuteth for our said lord the king in this behalf, doth the like, &c. therefore the sheriff of the said county of Middlesex is commanded that he do not omit by reason of any liberty within his bailiwick, but that he cause to come before the justices of our said lord the king assigned in form aforeaid, at the next general session of the peace to be holden for the said county, twelve good and lawful men of the neighbourhood of St. Clement Danes in the said county, each of whom hath ten pounds by the year at least of lands, tenements, or rent, by whom the truth of the matter can be better known and inquired into, and who are of no affinity to the said John Bewley, to recognize upon their oath whether the said John Bewley be guilty of the premises in the indictment aforeaid above specified or not, because as well the said Henry Collingwood Selby, esquire, who prosecutes for our said lord the king in this behalf, as the said John Bewley, have put themselves upon that jury, at which said general session of the peace, to wit, the general session of the peace of our lord the king holden in and for the county of Middlesex, at the session house for the said county, on Monday the tenth day of September, in the twenty-seventh year of the reign of our sovereign lord George the Third, king of Great Britain, &c. before William Mainwaring, David Walker, William Blamire, Edward Reed, esquires, and other their fellow justices of our said lord the king assigned to keep the peace in the county aforeaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county, as well the said Collingwood Selby, esquire, who prosecutes for our said lord the king in this behalf, as the said John Bewley, in their own proper persons, and the jurors of the said

saïd jury by Paul le Mesurier, esquire, Charles Higgins, esquire, sheriff of the county aforesaid, for this purpose impannelled and returned, to wit, Thomas Alders, Robert Cock, John Duncomb, James Winter, John Love, John Williams, George Newport, John Edmonds, Thomas Bowman, Charles Ballard, James Salisbury, and William Langford, being called come, who being chosen, tried, and sworn to speak the truth of and upon the premises in the indictment aforesaid above specified, do say upon their oath that the saïd John Bewley is not guilty of the misdemeanor and assault in the indictment above specified, in manner and form as the saïd John Bewley by his plea hath above alledged, upon which it is considered by the court here that the saïd John Bewley of the premises in the indictment aforesaid above specified be discharged, and do go without delay.

Verdict not guilty.

Judgment acquitted.

MIDDLESEX. These are to certify that at the general session of the peace of our lord the king, holden in and for the county of Middlesex, at the session house for the saïd county, on Tuesday the twenty-second day of May instant, John Bewley, late of New Inn, in the parish of St. Clement Danes, in the county of Middlesex, was and now stands indicted for making an assault upon William Yeates, gentleman, and unlawfully, violently, and injuriously seizing and taking from the saïd William, against his consent, a receipt bearing date the twenty-fifth day of April last, purporting to be the receipt of one Valentine Winckley to Mr. Richard Smith, for the sum of three pounds eighteen shillings, for a debt due to the saïd Valentine; to which indictment the saïd John Bewley hath not as yet appeared or pleaded: Dated the twenty-fourth day of May 1787.

Certificate from the clerk of the peace that an indictment for an assault is found against J. B. in order to obtain a judges warrant for apprehending him.

ENGLAND, to wit. Whereas it is certified unto me by the clerk of the peace for the county of Middlesex, that at the general sessions of the peace of our lord the king, holden in and for the county of Middlesex on the twenty second day of May last, John Bewley, late of New Inn in the parish of St. Clement Danes, in the county aforesaid, gentleman, was and now stands indicted for making an assault upon William Yeates, gentleman, and unlawfully, violently, and injuriously seizing and taking from the saïd William Yeates, against his consent, a receipt bearing date the twenty-fifth day of April last, purporting to be the receipt of one Valentine Winckley to Mr. Richard Smith, for the sum of three pounds eighteen shillings, for a debt due to the saïd Valentine, to which indictment the saïd John Bewley hath not as yet appeared or pleaded; these are therefore to will and require, and in his majesty's name strictly to charge and command you and every of you, upon sight thereof, to apprehend and take the body of the saïd John Bewley, and bring him before me or one other of the judges of his majesty's court of king's bench,

Judges. warrant to apprehend J. B. upon an indictment for an assault, certified to have been found against him by the clerks of the peace.

4th Black. Com. 314.

MISDEMEANOR.—CONSPIRACY

bench, if taken in or near the cities of London or Westminster, if elsewhere, before some justice of the peace near to the place where he shall be herewith taken, to the end that the said John Bewley may become bound with sufficient securities for his personal appearance at the next general quarter session of the peace of our lord the king, to be holden in and for the county of Middlesex, to answer the said indictment, and be further dealt with necessary to law ; hereof fail not at your perils : Given under my hand and seal the sixth day of June, A. D. 1787.

FRANCIS BULLER.

INFORMATIONS.

INFORMATIONS.

Easter Term, 14. George III.

BE it remembered that sir F. B. knight, coroner, &c. that one James Kermes and one Samuel Galton, on the seventeenth June, in the twelfth year of the reign, &c. now king of Great Britain, and long before, and from thence for a long time, viz. for the space of twelve months were gun-makers, and dealers in, and sellers of guns, and during all that time used, exercised, and carried on the said trade or business in copartnership, that is to say, at Birmingham, in the county of Warwick: And the said coroner and attorney of our said present sovereign lord the king for our said present sovereign lord the king further giveth the court here to understand and be informed, that Thomas Hadley, late of Birmingham aforesaid, in the said county, gun-maker, Richard Evans, late of the same place, yeoman, Samuel Meadows, late of the same place, gun-maker, John Harrison, late of the same place, gunner, William Blackmore, late of the same place, gunner, William Field, late of the same place, gunner, Thomas Dowlers, gunner, Joseph Edge, &c. gunner, and John Crump, late of the same place, gunner, together with divers other persons whose names are not at present to the said coroner and attorney of our said lord the king known, well knowing the premises aforesaid, but contriving, and wickedly and maliciously designing and endeavouring to harass, injure, and impoverish the said Farmer James and Samuel Galton, and to put a stop to and ruin their said trade and business, on the said seventeenth of June, in the said seventeenth year of the reign of our sovereign lord George the Third, now king of Great Britain and defender of the faith, &c. with force and arms at B. aforesaid, in the said county of Warwick, unlawfully, wickedly, and maliciously did conspire, combine, confederate, and agree amongst themselves unjustly to injure and oppress the said J. F. and S. G. and to interrupt and obstruct the said J. F. and S. G. in carrying on their said trade and business, and to put a stop to and ruin the same: And the said coroner and attorney for our said lord the king giveth the court here further to understand and be informed, that the said Thomas Hadley and others, in pursuance of the said unlawful and wicked conspiracy, combination, and confederacy aforesaid, on the same day and year aforesaid, and on divers other days and times between that day and the first day of June, in the thirteenth year of the reign of our lord the present king at B. aforesaid, in the said county, wickedly, maliciously, and unjustly did make and cause and proceed to be made, divers riots and disturbances near to the dwelling house of the said Samuel Galton, situated, lying, and being at B. aforesaid, and then and there did break and destroy,

For a conspiracy to ruin gun-makers in their trade, making riots before their house and shop, seducing their workmen, making declarations of ill will towards them, threatening bodily injury to their agent, and attempting to do him bodily injury.

Defendants conspire to ruin the trade.

and made riots near the dwelling house of said Samuel G.

and broke the windows, rails, and palisadoes,

And violently assembled with ribbons in their hats and music, near the workshops of said J. and S. G.

with intent to seduce their workmen.

Thomas H. one of the defendants, publicly declared, that if he could prevent the said J. F. and S. G. from executing any orders, he would give any sum, and would employ at full price all the workmen of said J. F. and S. G. with intent to seduce them.

Said defendant laboured to seduce the workmen.

destroy, and caused to be broken and destroyed, divers windows, to wit, five windows of the said Samuel Galton, of and belonging to the said dwelling-house, and also did break down, spoil, and destroy, and caused to be broken down, spoiled, and destroyed, divers rails and palisadoes, to wit, fifty rails and fifty palisadoes of the said Samuel Galton erected before his dwelling-house:

And the said coroner and attorney of our said lord the king further giveth the court to understand and be informed, that the said Thomas Hadley, &c. in further pursuance of their said most wicked and malicious conspiracy, on the twenty-seventh November, in the said thirteenth year of the reign of our lord the now king at B. aforesaid in the said county, together with divers other persons whose names are at present unknown to the said coroner and attorney, did unlawfully, wickedly, and maliciously assemble together in a riotous and tumultuous manner, and with ribbons in their hats and music playing near the workshops of the said James Farmer and S. G. in B. aforesaid, wherein the said J. F. and S. G. then carried on their said trade and business, with intent to seduce and entice the workmen of the said J. F. and S. G. employed by them in their said trade and business, and there actually at work for the said J. F. and S. G. in the said trade and business, to leave their work: And the said coroner and attorney of our said present sovereign lord the king further giveth the court here to understand and be informed, that afterwards, to wit, on the sixth December in the thirteenth year aforesaid, at B. aforesaid, in further pursuance of the said most wicked and malicious conspiracy, combination, confederacy, and agreement, he the said Thomas Hadley, publicly, in the presence of divers persons declared, that if he the said J. H. could prevent the said J. F. and S. G. from executing certain large orders which the said J. F. and S. G. then had for divers goods and merchandizes in the way of their said trade, and could distress their trade, he the said Thomas H. would give any sum of money, and would employ at full price all the workmen of the said J. F. and S. G. to seduce the workmen of the said J. F. and S. G. then employed by them in their said trade, to leave their service: And the said coroner and attorney of our said lord the king for our said lord the king further gives the court to understand and be informed, that on the eighteenth June in the twelfth year aforesaid, and at divers other days and times between that day and the first June in the thirteenth year aforesaid, in further pursuance and execution of the aforesaid wicked and malicious conspiracy, combination, confederacy, and agreement, and in order to accomplish the same, the said Thomas Hadley and others did unlawfully and wickedly labour, and as much as in them lay endeavour to seduce and procure the servants and workmen of the said J. F. and S. G. then and there employed by them in their said trade and business, to leave and desert the service of the said J. F. and S. G.: And the said coroner and attorney of the said lord the king giveth the court here further to understand and be informed, that in further pursuance and in execution of the said wicked, malicious conspiracy

spiracy, combination, confederacy, and agreement, the said T. H. and others, on the said thirty-first December in the thirteenth year aforesaid, at B. aforesaid, in the said county, unlawfully, wickedly, and maliciously instigated, and persuaded, and procured Jonathan Newey and John Newton, and divers other of the servants and workmen of the said J. F. and S. G.: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that in further pursuance and execution of the said wicked and malicious conspiracy, combination, and agreement, on the eighteenth March, in the thirteenth year aforesaid, at B. aforesaid, in the said county, the said J. H. and others wickedly and maliciously prepared and threatened to do bodily injury to one William Bird, who was then and there an agent and servant of the said J. F. and S. G. in the said trade and business, and afterwards, to wit, on the nineteenth March, in the thirteenth year aforesaid, at B. aforesaid, did wickedly and maliciously attempt and endeavour to do bodily injury to the said William Bird, so then and there being the agent and servant of the said J. F. and S. G. to the great damage, oppression, and grievance of the said J. F. and S. G. to the evil and pernicious example of others in the like case offending, and against the peace of our lord the king, his crown and dignity: And the said coroner and attorney of our said present sovereign lord the king further giveth the court to understand and be informed, that the said F. H. and others, together with divers other persons whose names are at present to the said coroner and attorney of our said lord the king unknown, again contriving, and wickedly and maliciously designing and endeavouring to harass, injure, and impoverish the said J. F. and S. G. to put a stop to and ruin the said trade and business, on the thirteenth December, in the said thirteenth year of the reign of our said present sovereign lord the king, with force and arms, at B. aforesaid, in the said county of W. unlawfully, wickedly, and maliciously did again conspire, combine, and confederate and agree among themselves, unjustly further to injure and oppress the said J. B. and S. G. in carrying on their said trade and business, and to put a stop to and ruin the same: And the said coroner and attorney of our said lord the king further giveth the court here further to understand and be informed, that the said Thomas Hadley and others, in pursuance of the unlawful and wicked conspiracy, combination, and confederacy last mentioned, afterwards, to wit, on the thirty-first December, in the thirteenth year aforesaid, at B. aforesaid, in the said county, again wickedly, maliciously, and unjustly did instigate, seduce, incite, persuade, and procure Jonathan Newey, John Newton, and divers others of the workmen and servants of the said J. F. and S. G. in their said trade and business, to leave the service of the said J. F. and S. G. to the evil and pernicious example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity: And the coroner and attorney of our said present sovereign lord the king, for our said present sovereign lord the king, again

Instigated and procured some to quit their service.

threatened to do bodily injury to their agent,

and attempted to do bodily injury to him.

2d Count.

Defendant endeavours to injure the said J. F. and S. G. and to ruin their trade, and did again conspire, &c.

and seduced divers servants of said J. F. and S. G. to leave their service.

3d Count, defendants contriving, &c. to ruin the trade of said J. F. and S. G.

did conspire to obstruct them in carrying it on, and to ruin the same,

and endeavour-
ed to procure
their workmen
to quit their
service.

4th Count.

Defendant con-
spired to do bo-
dily injury to the
agent of said J.
F. and S. G.

and did attempt
to do bodily in-
jury.

further giveth the court to understand and be informed, that the said Thomas Hadley and others, together with divers other persons whose names are at present to the said coroner and attorney of our said lord the king unknown, again contriving and wickedly and maliciously designing and endeavouring to harass, injure, and impoverish the said J. F. &c. and to put a stop to and ruin their said trade and business, on the said seventeenth June, in the said twelfth year of the reign of our sovereign lord George the Third, of Great Britain, &c. with force and arms, at B. aforesaid, in the said county of W. again unlawfully, wickedly, and maliciously did conspire, contrive, and confederate and agree amongst themselves unjustly to injure and oppress the said J. F. and S. G. and to interrupt and obstruct the said J. F. and S. G. in carrying on their said trade and business, and to put a stop to and ruin the same: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that the said Thomas Hadley and others, in further pursuance and execution of their said unlawful and wicked conspiracy, combination, and confederacy aforesaid, to wit, on the same day and year last aforesaid, and on divers other days and times between that day and the first day of June, in the thirteenth year aforesaid, at B. aforesaid, in the said county, wickedly, maliciously, and unjustly, in as much as in them lay, did endeavour to procure the workmen and servants of the said J. F. and S. G. then and there employed by the said J. F. and S. G. in their said trade and business, to leave the service of the said J. F. and S. G. to the evil and pernicious example of all others in the like case offending, and against the peace of our lord the now king, his crown and dignity: And the said coroner and attorney of our said present sovereign lord the king, for our said present lord the king giveth the court here further to understand and be informed, that the said Thomas Hadley and others, together with divers other persons, whose names are as yet unknown to the coroner and attorney of our said present sovereign lord the king, on the eighteenth March, in the thirteenth year aforesaid, with force and arms, at B. aforesaid, in the said county of W. unlawfully, wickedly, and maliciously did conspire, combine, and agree to do bodily injury to one William Bird: And the said coroner and attorney of our present sovereign lord the king, for our present sovereign lord the king, giveth the court here to understand and be informed, that the said Thomas Hadley and others, in pursuance of the said last-mentioned conspiracy aforesaid, to wit, on the nineteenth March, in the thirteenth year aforesaid, at B. aforesaid, in the said county, unlawfully, wickedly, and maliciously, did prepare themselves, and attempt and endeavour to do bodily injury to the said William Bird, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity; and thereupon the said coroner and attorney of our said lord the king, who for our said lord the king prayeth the consideration of the court here in the premises, and that due process of law may be

be awarded against them the said J. Hadley and others in this behalf, to make them answer to our said lord the king touching and concerning the premises aforesaid; and now, that is to say, on next, after , come the said T. H. and others, by A. B. their attorney, and having heard the said information read to them, say, that they are not guilty of the premises above laid to their charge in and by the said information, and of this they put themselves upon the country.

BE it remembered that Sir James Burrow, knight, coroner and attorney for our sovereign lord the present king, in the court of our sovereign lord the king himself, who prosecutes in this behalf for our said lord the king, in his own proper person comes here into the court of our said lord the king, before the king himself, at Westminster, on Monday next, after the Morrow of All Souls, in this said term, and for our said lord the king giveth the court here to understand and be informed, that on the eighteenth day of November, in the fourteenth year of the reign of our present sovereign lord George the Third, by the grace of God, king of Great Britain, &c. and before that time, George Coleman, esquire, and certain other persons, were the proprietors of a certain theatre or playhouse, situate in the parish of Saint Paul, Covent Garden, or within the city of Westminster, commonly called the Theatre Royal, in Covent Garden, otherwise Covent Garden Theatre, and then and there had lawful power, licence, and authority from time to time to show and present tragedies, comedies, and plays within the said theatre, and together entertain, privilege, and keep such and so many players and persons to act tragedies, comedies, and plays within the said theatre as they should think meet, and such persons to permit and continue at and during the pleasure of the said proprietors from time to time to act tragedies, comedies, and plays peaceably and quietly, without impeachment or impediment of any persons whatsoever, at Westminster aforesaid, in the county of Middlesex: And the said coroner and attorney of our sovereign lord the king, for our sovereign lord the king further giveth the court here to understand and be informed, that on the eighteenth day of November, in the said fourteenth year of the reign of our said sovereign lord the present king, Charles Macklin, gentleman, was a person who used and followed the profession of a player or actor, and then was, and before that time had been privileged, kept, and retained as a player or actor in the way of his said profession by the aforesaid Coleman, on the behalf of himself and the other proprietors of the said theatre, for and during a certain time not then expired, at and for a salary and reward therefore payable by him to the said Charles Macklin, and that the said Charles Macklin then and for divers, to wit, thirty years before that time sought his living, and sustained himself and his family by his said profession and character of a player or actor, and thereby acquired great gains, and a comfortable subsistence for himself and his

For a conspiracy to ruin a player in his profession, by making a riot in the playhouse, and preventing the performance of a play in which he was to act, and obliging the manager to come on the stage and discharge him. G. C. and others were proprietors of Covent Garden Theatre. Had lawful authority to present plays and keep players.

C. M. was a player, and retained as such by the said G. C.

for a salary and reward, and had sustained himself and family thirty years by his profession;

A play appointed by the said proprietors to be performed.

C. M. appointed to play a part in it.

Defendants persons of riotous dispositions,

and conspiring to ruin the said C. M. and to procure his discharge from the said theatre.

Made a tumult and riot in the said theatre, and hindered C. M. from playing,

and prevented the performance of the play.

Obliged the said G. C. to come upon the stage, and discharge the said C. M. against his will.

his said family, at Westminster aforesaid, in the said county of Middlesex: And the said coroner and attorney of our said sovereign lord the king, for our said sovereign lord the king further giveth the court here to understand, that on the said eighteenth day of November, in the year aforesaid, a certain old play or comedy, called the Merchant of Venice, was appointed by the said proprietors of the said theatre to be presented on that day at and in the said theatre, according to the public notice thereof in that behalf given, and which said play or comedy had for a long time, or for ten years and more before that time, been presented and performed in the said theatre; and that the said Charles Macklin, as such player or actor as aforesaid, was appointed by the said proprietors of the said theatre to play and perform a certain part of and character in the said play or comedy, called and distinguished by the name of Shylock, and which said part or character in the said play or comedy the said C. M. had often before played and performed in the said theatre with public applause, to wit, at Westminster aforesaid, in the county aforesaid: And the said coroner and attorney of our said lord the king, for our said lord the king further giveth the court here to understand and be informed, that Thomas Leigh, late of Westminster, taylor, William Augustus Miles, late of the same place, esquire, Ralph Alders, late of the same place, gentleman, John Steven James, late of the same place, esquire, and Joseph Clarke, late of the same place, gentleman, being persons of riotous, turbulent, and evil dispositions, with force and arms unlawfully, wickedly, and maliciously conspiring together to ruin the said Charles Macklin in his aforesaid profession of a player or actor, and to deprive him of his aforesaid means of livelihood, and to extort and procure his discharge from the said theatre by the proprietors, with force and arms, on the said eighteenth day of November, in the fourteenth year aforesaid, at Westminster aforesaid, in the said county of Middlesex, unlawfully, wickedly, riotously, and tumultuously at and in the said theatre made and raised a great noise, tumult, riot, and disturbance, and thereby tumultuously and turbulently prevented and hindered the said C. M. from playing and performing the part or character of Shylock in the said play or comedy called the Merchant of Venice, and then and there wholly obstructed and prevented the performance of the said play or comedy there in the said theatre, and then and there also forced, compelled, and obliged the aforesaid George Coleman, esquire, then being one of the proprietors of the said theatre or playhouse, and then and there being the acting manager, against his will to come upon the stage of the said theatre, there and for himself and the other proprietors of the same theatre, then and there to discharge the said Charles Macklin without his consent, and against his will, from the said retainer and employment of a player or actor at the said theatre, and wholly to dismiss him therefrom, against the will of the said George Coleman, and of the said other proprietors of that theatre, to wit, at Westminster aforesaid, in the said county of Middlesex, in contempt of our said lord the king and his laws, to the

the manifest injury and ruin of the said C. M. in his said profession and way of livelihood, to the great loss and damage of the aforesaid proprietors of the said theatre, to the total subversion and all good order in society, and against the peace of our said lord the king, his crown and dignity: And the said coroner and attorney ^{2d Count.} of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that on the said eighteenth day of November, in the fourteenth year aforesaid, and before that time, the said George Coleman, esquire, and certain other persons, were the proprietors of a certain theatre or play-house situated in the parish of Saint Paul, Covent Garden, within the said city of Westminster, commonly called the Theatre Royal, in Covent Garden, and then and there had lawful power, licence, and authority from time to time to show and present tragedies, comedies, and plays within the said last-mentioned theatre, and together entertain, privilege, and keep such and so many players and persons to act tragedies, comedies, and plays peaceably and quietly without impeachment and impediment of any person or persons whatsoever, to wit, at Westminster, in the said county of Middlesex: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that on the eighteenth day of November, in the fourteenth year aforesaid, one Charles Macklin, gentleman, was a person who used and followed the profession of a player or actor, and then was, and before that time had been privileged, kept, and retained as a player or actor in the way of his said profession by the aforesaid George Coleman, on the behalf of himself, and the said other proprietors of the said theatre last-mentioned, he the said C. M. then and for divers, to wit, thirty years before that time sought his living, and sustained himself and his family by his said profession or character of a player or actor, and thereby acquired great gain, and a comfortable subsistence for himself and his family, at Westminster aforesaid, in the said county of Middlesex: And the said coroner and attorney of our said lord the king, for our said sovereign lord the king, further giveth the court here to understand and be informed, that on the said eighteenth day of November, in the year aforesaid, the aforesaid old play or comedy called the Merchant of Venice was appointed by the said proprietors of the said last-mentioned theatre, according to a public notice in that behalf given, and which said play or comedy had for a long time, to wit, for ten years and more before that time, been presented and performed in the said last-mentioned theatre, and that the said last-mentioned C. M. as such player or actor as aforesaid, was appointed by the said proprietors of the said last-mentioned theatre to play and perform a certain part or character in the said play or comedy called and distinguished by the name of Shylock, and which said part or character in the said play or comedy the said C. M. had often played and performed in the said last-mentioned theatre, to wit, at Westminster aforesaid, in the

county aforesaid: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that the said F. L. W. A. M. R. A. T. T. and J. C. being persons of riotous, turbulent, and evil dispositions, with force and arms, on the said eighteenth day of November, in the fourteenth year aforesaid, at Westminster aforesaid, in the said county of Middlesex, unlawfully, wickedly, riotously, and routously, at and in the said last-mentioned theatre, made and raised, and caused to be made and raised a great noise, tumult, riot, and disturbance, and thereby tumultuously and turbulently prevented, and wholly hindered the said last-mentioned Charles Macklin from playing and performing the said part or character of Shylock in the said play or comedy called the Merchant of Venice, without the consent, and against the will of the said proprietors of the said last-mentioned theatre, and then and there also forced and compelled, and obliged the aforesaid G. C. then being one of the said proprietors of the said last-mentioned theatre, then and there to discharge the said last-mentioned C. M. without his consent, and against his will, from his said profession and employment of a player or actor at the said last-mentioned theatre, and wholly to dismiss therefrom, against the will of the said George Coleman, and also of the said other proprietors of that last-mentioned theatre, at Westminster aforesaid, in the said county of Middlesex, in contempt of our said lord the king and his laws, to the manifest injury and ruin of the said C. M. in his said profession and way of livelihood, to the total subversion of all good order in society, and against the peace of our said lord the king, his crown and dignity: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that on the said eighteenth day of November, in the fourteen year aforesaid, and before that time, the said G. C. esquire, was the acting manager of a certain other theatre or playhouse situated in the said parish of Saint Paul, Covent Garden, within the city of Westminster, commonly called the Theatre Royal, Covent Garden, on the behalf of the then proprietors, at Westminster aforesaid, in the said county of Middlesex: And the said coroner and attorney for our said sovereign lord the king further giveth the court here to understand and be informed, that on the said eighteenth day of November, in the fourteenth year aforesaid, one other C. M. was a person who used and followed the profession of a player or actor, and then was, and before that time had been employed, kept, and retained as a player or actor in the way of his said profession by the aforesaid G. C. on the behalf of the then proprietors of the said last-mentioned theatre, for and during a certain time not then expired, at and for a salary and reward therefore payable to the said C. M. then and for divers, to wit, thirty years before that time sought his living and sustained himself and his family by his said profession and character of a player or actor, and thereby acquired great gains and comfortable subsistence

3d Count.

ence for himself and his family, to wit, at Westminster, in the said county of Middlesex: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that on the said eighteenth day of November, in the year aforesaid, the aforesaid play or comedy called the Merchant of Venice was appointed by the said George Coleman, as such manager on the behalf of the said then proprietors of the last-mentioned theatre, according to public notice thereof and in that behalf given, he the said George Coleman, as such manager as aforesaid, having lawful authority for that purpose; and the said last-mentioned Charles Macklin, as such player or actor as aforesaid, was appointed by the said George Coleman, as such manager of the said last-mentioned theatre as aforesaid, to play and perform a certain part or character in the said play or comedy called or distinguished by the name of Shylock, he the said George Coleman having then and there lawful authority to make such appointment, to wit, at Westminster aforesaid, in the county aforesaid: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that the said T. L. W. A. M. R. A. J. S. J. and J. C. being persons of riotous, turbulent, and evil dispositions, with force and arms, on the eighteenth day of November, in the fourteenth year aforesaid, at Westminster aforesaid, in the said county of Middlesex, unlawfully, wickedly, riotously, and routously, at and in the said last-mentioned theatre or playhouse, made and raised, and caused to be made and raised, a great noise, tumult, riot, and disturbance, and thereby unlawfully, tumultuously, and turbulently prevented and hindered the said last-mentioned C. M. from playing and performing the said last-mentioned character of Shylock in the said play or comedy called the Merchant of Venice, and then and there wholly obstructed and prevented the performance of the said play or comedy then in the said last-mentioned theatre, without the consent, and against the will of the said George Coleman and the said then proprietors, and then and there unlawfully and maliciously forced, compelled, and obliged the aforesaid George Coleman, as such manager as aforesaid, for and on the behalf of the then proprietors of that theatre, to discharge the last-mentioned Charles Macklin without his consent and against his will from his said retainer and employment of a player or actor at the said last-mentioned theatre, and wholly to dismiss him therefrom, by means whereof the said last-mentioned Charles Macklin hath ever since that time hitherto remained wholly discharged and dismissed from the aforesaid employment and retainer, and hath totally lost and been deprived of great gains and emoluments which would otherwise have accrued to him therefrom, to wit, at Westminster aforesaid, in the said county of Middlesex, in contempt of our said lord the king and his laws, to the manifest injury and ruin of the said Charles Macklin in his
said

said profession and way of livelihood, to the great loss and damage of the aforesaid proprietors of the said last-mentioned theatre or playhouse, to the total subversion of all good order in society, and against the peace of our said lord the king, his crown and dignity: And the coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that on the eighteenth day of November, in the fourteenth year aforesaid, the aforesaid play or comedy called the Merchant of Venice was appointed by the proprietors of a certain other theatre or playhouse, called the Theatre Royal, in Covent Garden, situate within the said parish of Saint Paul, Covent Garden, within the said city of Westminster, to be acted and performed on that day, and at the last-mentioned theatre, according to public notice in that behalf previously given, the said then proprietors of the said last-mentioned theatre or playhouse then and there having lawful power, licence, and authority for that purpose, and that one other Charles Macklin, being then and there a player or actor belonging to the said last-mentioned theatre or playhouse, and before that time, and then retained by the said then proprietors thereof as such player or actor, was then or there to perform a certain part or character in the said last-mentioned play or comedy called Shylock, they the said proprietors of the said last-mentioned theatre or playhouse having then and there lawful power, licence, and authority in that behalf, at Westminster aforesaid, in the said county of Middlesex: And the said coroner and attorney of our said lord the king, for our said lord the king, further giveth the court here to understand and be informed, that the said T. L. W. A. M. R. A. J. S. J. and J. C. being persons of riotous, turbulent, and evil dispositions as aforesaid, on the said eighteenth day of November, in the fourteenth year aforesaid, at Westminster aforesaid, with force and arms unlawfully, wickedly, riotously, and routously assembled together at and in the said last-mentioned theatre or playhouse, and then and there made and raised, and cause to be made and raised, a great noise, tumult, riot, and disturbance, and then and there unlawfully, tumultuously, and turbulently obstructed and hindered the performance of the said play or comedy then called the Merchant of Venice, which was so appointed by the said proprietors of the said last-mentioned theatre to be then and there acted and performed at and in the said last-mentioned theatre on that day, and then and there wholly prevented the same play or comedy from being acted and performed there, without the consent and against the will of the said proprietors of the said last-mentioned theatre, and obliged the said proprietors of the said last-mentioned theatre, and against their will, to discharge and dismiss the said last-mentioned Charles Macklin, who before that time had been and then was retained and employed by the said proprietors as a player or actor at the said last-mentioned theatre, at and for a certain sum of money payable by them to him for his said employment as a player,

player or actor of the said last-mentioned theatre, and without the consent, and against the will of the said Charles Macklin, to wit, at Westminster aforesaid, in the said county of Middlesex, in contempt of our said lord the king and his laws, to the manifest injury and ruin of the said Charles Macklin in his said profession and way of livelihood, to the great loss and damage of the said proprietors of the said last-mentioned theatre, to the total subversion of all good order in society, and against the peace of our said lord the king, his crown and dignity.

THE KING
against

ARTHUR CHARTERS MURPHY.

INFORMATION states, Information for publishing a libel of the prosecutors, charging them with having exported gold to Holland whilst under the government of the French, and discounting foreign bills for that purpose.

that one Benjamin Goldsmid, and one Abraham Goldsmid, long before, and at the respective times of the writing, printing, and publishing of the several libels hereinafter next mentioned, were and still are brothers, and persons residing and carrying on commerce within this kingdom in copartnership, to wit, at London, in the parish of Saint Mary le Bow, in the ward of Cheap, and that Holland, in parts beyond the seas, long before, and at the respective times of the writing, printing, and publishing of the four several libels next hereinafter mentioned, was in the possession and under the government of certain enemies of our said lord the king, then at war with our said lord the king, to wit, at London, &c.: That defendant contriving, and unlawfully and wickedly intending to hurt, injure, and prejudice the said Benjamin and Abraham, and to deprive them of their good name, fame, credit, and reputation, and to bring them into great scandal, disgrace, infamy and contempt, and to cause it to be suspected and believed that they the said Benjamin and Abraham had discounted divers foreign bills of exchange, for the purpose of unlawfully sending and exporting, and had unlawfully sent and exported divers guineas, part of the gold coin of this kingdom, from this kingdom to Holland aforesaid, whilst the same was in such possession and under such government as aforesaid, to and for the use of certain enemies of our said lord the king, then at war with our said lord the king, heretofore, to wit, on the ninth day of January, in the thirty-sixth year of the reign of our said lord the king, at London, &c. with force and arms did unlawfully, wickedly, and maliciously write and publish, and cause and procure to be written and published, a certain false, wicked, scandalous, and malicious libel, in the form of a letter, addressed to one Frederick Bourne, containing divers false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say; Since I (meaning himself the said defendant) wrote the enclosed, I (meaning himself the said defendant) have heard from the authority of a very eminent exchange broker, who came in here by accident while I (meaning himself the said defendant) was at dinn. (meaning dinner), that a discovery had been lately made

made of a very ferious and and important nature, namely, that the great house of Goldsmiths (meaning Goldsmids, and thereby meaning the said Benjamin and Abraham) have discounted foreign bills (meaning bills of exchange) to an amazing amt. (meaning amount) for the illegal purpose of sending English guineas to Holland (meaning Holland aforesaid), where they bear a premium of four shillings each; the quanty (meaning quantity), it seems, was so immense as to give suspicion, and one of the firm (meaning one of them the said Benjamin and Abraham) has been examined before the privy council; he was threatend (meaning threatened) with committal, but nothing could be extorted from him; and so he told them, they might dispose of his person as they pleased, but should never force him to say a word contrary to the regular rules of interrogation; upon which he was dismissed for the present. The consequence of this discovery is extremely fatal to the circulation of specie, as the first paper in London is refused at the bank. What makes this transaction the more iniquitous is, that the G—'s. (meaning Goldsmids, and thereby meaning the said Benjamin and Abraham) are under the highest obligations to government, as sharers in every money transaction. A most striking article may be made from this account, which, in my present state of mind, I (meaning himself the said defendant) am totally incompetent. But you must by no *means mention names; perhaps* the best method of stating the facts will be, by saying, a certain auriferous fraternity, for they (meaning the said Benjamin and Abraham) are brothers, &c. and you (meaning the said Frederick Bourne) may give the thing as much weight as possible; for it is not only important, but an absolute fact (meaning thereby that the said matter which the said defendant had so as aforesaid stated in the former part of the said libel that he had heard was true, and that the said Benjamin and Abraham had discounted divers foreign bills of exchange for the purpose aforesaid). I (meaning himself the said defendant) used every judicious means of finding out whether any thing appeared in any of the papers, but was afraid of being too nice upon the point; from what I (meaning himself the said defendant) could collect, nothing has been made public. The exportation of gold (meaning gold) coin is prohibited by act of parliamt. (meaning parliament) under heavy penalties; but the exportation of it to an enemy is a species of high treason the said defendant then and there meaning and intending by the said several matters so by him written and published as aforesaid, to insinuate and be understood, that the said Benjamin and Abraham had discounted divers foreign bills of exchange for the purpose of unlawfully sending and exporting, and had unlawfully sent and exported divers guineas of the gold coin of this kingdom from this kingdom to Holland aforesaid, to and for the use of certain enemies of our said lord the king, then being at war with our said lord the king, to the great damage, scandal, and disgrace of the said Benjamin and Abraham, to the evil example of

of all others in the like case offending, and against the peace of our said lord the king, &c.: That the defendant further wickedly, ^{2d Count.} unlawfully, and maliciously minding, contriving, and intending as aforesaid, afterwards, to wit, on the tenth day of January, in in the thirty-sixth year aforesaid, at London, &c. did unlawfully, &c. print and publish, and cause to be printed and published, a certain other false, wicked, scandalous, and malicious libel, containing divers other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, A matter of much serious import has recently occurred in this city: a certain auriferous fraternity (meaning the said Benjamin and Abraham) have been discovered to have discounted foreign bills (meaning bills of exchange) to an amazing amount, for the illegal purpose of sending English guineas to Holland (meaning Holland aforesaid) where they bear a premium of four shillings each. The quantity, it appears, was so immense as to give suspicion; and one of the firm (meaning one of them the said Benjamin and Abraham) has been examined before the privy council. He was threatened with committal, but nothing could be extorted from him; they might, he said, dispose of his person as they pleased, but should never force him to say a word beyond the necessary replies to regular interrogation; upon which he was for the present dismissed. The consequence of this discovery is extremely fatal to the circulation of specie; and to it, in a great degree, is to be computed the recent refusals of the bank to discount bills on the first houses in the metropolis. The exportation of gold coin is prohibited by an act of parliament, under heavy penalties; but the exportation of it to an enemy is a species of high treason. And what makes the transaction alluded to the more iniquitous is, that this fraternal firm (again meaning the said Benjamin and Abraham) is under the highest obligations to government, by whom it was admitted to a participation in every money advantage, the said defendant then and there meaning and intending by the said several matters so by him printed and published, and caused to be printed and published as last aforesaid, to insinuate and be understood, that the said Benjamin and Abraham had discounted divers foreign bills of exchange, for the purpose of unlawfully sending and exporting, and had unlawfully sent and exported divers guineas of the gold coin of this kingdom from this kingdom to Holland aforesaid, to and for the use of certain enemies of our said lord the king, then being at war with our said lord the king, to the great damage, &c.: That the de- ^{3d Count.} fendant further contriving, and unlawfully and wickedly intending to hurt, injure, and prejudice the said Benjamin and Abraham, and to deprive them of their good name, fame, credit, and reputation, and to bring them into great scandal, disgrace, and infamy, and contempt, and to cause it to be suspected and believed that they the said Benjamin and Abraham had been guilty of high treason, heretofore, to wit, on the said ninth day

January, in the year aforesaid, at London, &c. aforesaid, with force and arms did unlawfully, wickedly, and maliciously write and publish, and cause it to be written and published, a certain other false, wicked, scandalous, and malicious libel, containing in one part thereof divers other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, Since I (meaning himself the said defendant) wrote the enclosed, I (meaning himself the said defendant) have heard, from the authority of a very eminent exchange broker, who came in here by accident while I was at dinn. (meaning dinner), that a discovery has been lately made of a very serious and important nature, namely, that the great house of Goldsmith's (meaning Goldsmids, and thereby meaning the said Benjamin and Abraham) have discounted foreign bills (meaning bills of exchange) to an amazing amot. (meaning amount), for the illegal purpose of sending English guineas to Holland (meaning Holland aforesaid), where they bear a premium of four shillings each; and in which said last-mentioned libel in another part thereof are contained divers other matters and things, according to the tenor and effect following, that is to say, the exportation of gold (meaning gold) coin is prohibited by act of parliamt. (meaning parliament) under heavy penalties, but the exportation of it to an enemy is a species of high treason (the said defendant meaning and intending by the said several matters and things, so by him written and published as in this count mentioned to insinuate and be understood that the said Benjamin and Abraham had been guilty of high treason), to the great damage, &c.: That defendant further wickedly, unlawfully, and maliciously, minding, contriving, and intending as last aforesaid, to wit, on the tenth day of January, in the year aforesaid, at London, &c. aforesaid, did unlawfully, wickedly, and maliciously, print and publish, and cause to be printed and published, certain other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, A matter of much serious import has recently occurred in the city: a certain auriferous fraternity (meaning the said Benjamin and Abraham) have been discovered to have discounted foreign bills (meaning bills of exchange) to an amazing amount, for the illegal purpose of sending English guineas to Holland (meaning Holland aforesaid), where they bear a premium of four shillings each; and in which last-mentioned libel are contained in another part thereof, divers other matters and things, according to the tenor and effect following, that is to say, the exportation of gold coin is prohibited by an act of parliament under heavy penalties, but the exportation of it to an enemy is a species of high treason (the said defendant meaning that the said Benjamin and Abraham had been guilty of high treason) to the great damage, &c.: That the defendant further contriving, and unlawfully intending to hurt, injure, and prejudice the said Benjamin and

4th Count.

5th Count.

and Abraham in their good name, fame, credit, and reputation, and to bring them into great scandal, hatred, disgrace, ridicule, and contempt, heretofore, to wit, on the said ninth day of January, in the year aforesaid, at, &c. aforesaid, with force and arms did unlawfully, wickedly, and maliciously write and publish, and cause to be written and published, a certain other false, scandalous, wicked, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say: Since I (meaning himself the said defendant) wrote the enclosed, I (meaning himself the said defendant) have heard, from the authority of a very eminent exchange broker who came in here by accident while I was at dinn. (meaning dinner), that a discovery has been lately made of a very serious and important nature, namely, that the great house of Goldsmiths (meaning Goldsmids, and thereby meaning the said Benjamin and Abraham) have discounted foreign bills (meaning bills of exchange) to an amazing amt. (meaning amount), for the illegal purpose of sending English guineas to Holland, where they bear a premium of four shillings each. The quantity (meaning quantity) it seems was so immense as to give suspicion; and one of the firm (meaning one of them the said Benjamin and Abraham) has been examined before the privy council: he was threatend (meaning threatened) with committal, but nothing could be extorted from him; and so he told them, they might, he said, dispose of his person as they pleased, but should never force him to say a word contrary to the regular rules of interrogation; upon which he was dismissed for the present. The consequence of this discovery is extremely fatal to the circulation of specie, as the first paper in London is refused at the bank. What makes this transaction the more iniquitous is, that the G—'s. (meaning Goldsmids, and thereby, meaning the said Benjamin and Abraham) are under the highest obligations to government, as sharers in every money advantage. A most striking article may be made from this accident, which, in my present state of mind, I am totally incompetent; but you must by no means mention names. Perhaps the best method of stating the facts will be, by saying—a certain auriferous fraternity, for they (meaning the said Benjamin and Abraham) are brothers, &c. &c. &c. You may give the thing as much weight as possible; for it is not only important, but an absolute fact (meaning thereby to assert, that the said matter which the defendant had so as aforesaid stated in the former part of the said libel, that he had heard was true, and that the said Benjamin and Abraham had so discounted foreign bills of exchange for the purpose therein mentioned); I used every judicious means of finding out whether any thing of it appeared in any of the papers, but was afraid of being too nice upon the point; from what I could collect nothing has been made public. The exportation of gold coin is prohibited by act of parliamt. (meaning parliament) under heavy penalties, but the exportation of it to an enemy is a species of

6th Count.

high treason, to the great damage, &c.: That the defendant further contriving, and unlawfully intending as last aforesaid, afterwards, to wit, on the tenth day of January, in the year aforesaid, at, &c. aforesaid, with force and arms did unlawfully, wickedly, and maliciously print and publish, and cause to be printed and published, a certain other false, scandalous, wicked, and malicious libel, containing divers other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, A matter of much serious import has recently occurred in the city: a certain auriferous fraternity (meaning the said Benjamin and Abraham), have been discovered to have discounted foreign bills (meaning bills of exchange) to an amazing amount, for the illegal purpose of sending English guineas to Holland, where they bear a premium of four shillings each. The quantity, it appears, was so immense as to give suspicion; and one of the firm (meaning one of them the said Benjamin and Abraham) has been examined before the privy council; he was threatened with committal, but nothing could be extorted from him; they might, he said, dispose of his person as they pleased, but should never force him to say a word beyond the necessary replies to regular interrogation; upon which he was for the present dismissed. The consequence of this discovery is extremely fatal to the circulation of specie; and to it, in a great degree, is to be imputed the recent refusals of the bank to discount bills on the first houses in the metropolis. The exportation of gold coin is prohibited by an act of parliament under heavy penalties, but the exportation of it to an enemy is a species of high treason; and what makes the transaction alluded to the more iniquitous is, that this fraternal firm (meaning the said Benjamin and Abraham) is under the highest obligations to government, by whom it was admitted to a participation in every money

7th Count.

advantage, to the great damage, &c.: That the defendant further contriving and wickedly intending as last aforesaid, to wit, on the ninth day of January, in the year aforesaid, at London, &c. aforesaid, with force and arms did unlawfully, wickedly, and maliciously write and publish, and cause to be written and published, a certain other false, scandalous, wicked, and malicious libel, containing amongst other things divers other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, Since I (meaning himself the said defendant) wrote the enclosed, I (meaning himself the said defendant) have heard, from the authority of a very eminent exchange broker, who came in here by accident while I was at dinn. (meaning dinner), that a discovery has been lately made of a very serious and important nature, namely, that the great house of Goldsmiths (meaning Goldsmids, and thereby meaning the said Benjamin and Abraham) have discounted foreign bills to an amazing amot. (meaning amount) for the illegal purpose of sending English guineas to Holland, where they bear a pre-
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mium of four shillings each, to the great damage, &c. : That the 8th Count. Defendant further wickedly, unlawfully, and maliciously mind- ing, contriving, and intending as last aforesaid, to wit, on the tenth day of January, in the year aforesaid, at London, &c. aforesaid, with force and arms did unlawfully, wickedly, and ma- liciously print and publish, and cause to be printed and published, certain other false, scandalous, and malicious matters and things of and concerning the said Benjamin and Abraham, according to the tenor and effect following, that is to say, A matter of much serious import has recently occurred in the city: a certain au- riferous fraternity (meaning the said Benjamin and Abraham) have been discovered to have discounted foreign bills to an amaz- ing amount, for the illegal purpose of sending English guineas to Holland, where they bear a premium of four shillings each, to the great damage, &c. (Plea, General Issue).

JAMES TEMPLER, esquire, coroner and attorney of our present sovereign lord the king, in the court of our said lord the king, before the king himself, who for our said lord the king in this behalf prosecuteth, in his proper person cometh here into the court of our said lord the king, before the king himself, at Westminster, on Friday next, after fifteen days from the Feast of Easter, in this same term, and for our said lord the king giveth the court here to understand and be informed, that on the sixth day of September, in the twenty-fifth year of the reign of our said present sovereign lord George the Third, by the grace of God, king of Great Britain, &c. at Reigate, in the county of Surry, a general meeting of the justices assigned to keep the peace of our said lord the king in and for the county of Surry, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the same county, acting in a certain hundred in the said county of Surry, called the hundred of Reigate, in the county aforesaid, was duly held, for the pur- pose of licensing persons to keep common inns or alehouses within the said hundred, according to the form of the statutes in such case made and provided: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that Henry Crunden, as a person residing and dwelling at Reigate aforesaid, in the said county of Surry, within the said hundred called the hundred of Reigate, at the said meeting of the said justices, holden before Anthony Dickens, esquire, the reverend Joseph Whately, clerk, and William Northey, esquire, then and still being three of the keepers of the peace, and justices of the said lord the king, as- signed to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county of Surry, acting in and for the said hundred, did then and there require the said justices to grant unto him the said Henry Crunden a licence to keep a common alehouse or victualling-house in a certain house, wherein

Information a- gainst justices of the peace for granting a li- cence for an alehouse after the same had been refused be- fore by the ma- gistrates at a ge- neral session.

the said Henry Crunden then intended to inhabit and dwell, at Reigate aforesaid, within the hundred aforesaid, for the space of one year from the twenty-ninth day of the same September: And the said coroner and attorney of our said lord the king giveth the court here further to understand and be informed, that the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, and being the only acting justices of the said meeting, did then and there on the said sixth day of September, in the twenty-fifth year aforesaid (having taken all and singular the premises into their consideration), refuse to grant a licence under their hands and seals for the keeping a common alehouse or victualling-house in the said house at Reigate aforesaid, within the hundred aforesaid, as by the law they had a right to do, and did not adjourn the said meeting to any other time or place: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that the reverend Thomas Roger Filewood, late of Mickleham, in the said county of Surry, clerk, and the reverend Peter Whalley, late of Horley, in the said county, clerk, being two of the keepers of the peace of our said lord the king, and justices of our said lord the king, assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed in the same county of Surry, well knowing all and singular the premises aforesaid, and having notice that a licence had been refused to be granted by the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, at the said meeting as aforesaid, being such justices as aforesaid, acting in and for the said hundred of Reigate, in manner and for the purpose aforesaid, but not having any regard for the laws of this realm, but being minded and intending to increase the number of common alehouses and victualling-houses in the hundred of Reigate aforesaid, in the county of Surry aforesaid, in defiance of legal magistracy and good order and government, afterwards, to wit, on the tenth day of the same September, in the said twenty-fifth year of the reign of our said lord the king, with force and arms, at Reigate aforesaid, in the county of Surry aforesaid, did unlawfully, wickedly, wrongfully, and corruptly meet and assemble together as keepers of the peace, and justices of our said lord the king, for the said county as aforesaid, for the purpose of granting a licence for the keeping a common alehouse or victualling-house within the said house, for which he the said Henry Crunden had so required a licence, notwithstanding the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate, in manner and for the purpose aforesaid, had refused to grant a licence for the keeping a common alehouse or victualling-house in the said house as by law they had a right to do; and notwithstanding they the said Thomas Roger Filewood and Peter Whalley well knew the same, and being then and there

so met and assembled, they the said Thomas Roger Filewood and Peter Whately did unlawfully, wickedly, wrongfully, and corruptly grant their licence, under their hands and seals, to and for William Ellis to keep a common alehouse or victualling-house in the same house for which he the said Henry Crunden had so required a licence as aforesaid, the said Thomas Roger Filewood well knowing that such licence for the keeping a common alehouse or victualling-house in the said house had been refused by the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate, at the said meeting by them held on the said sixth day of September aforesaid, in the twenty-fifth year aforesaid, at Reigate aforesaid, in the county of Surry aforesaid, for the hundred of Reigate aforesaid, in breach and violation of the said Thomas Roger Filewood's and Peter Whalley's duty as keepers of the peace, and justices as aforesaid, in contempt of our said lord the king, and his laws, and against the peace of our said lord the king, his crown and dignity: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that the said Thomas Roger Filewood, and Peter Whalley, being two of the keepers of the peace of our said lord the king, and justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county of Surry, not having any regard for the laws and statutes of this realm, but regardless of their duty as such keepers of the peace of our said lord the king, and justices of our said lord the king as aforesaid, afterwards, to wit, on the tenth day of September aforesaid, in the twenty-fifth year aforesaid, with force and arms, at Reigate aforesaid, in the county of Surry aforesaid, did unlawfully, wrongfully, and corruptly grant their licence, under their hands and seals, to William Ellis to keep a common alehouse or victualling-house in a certain other house in Reigate aforesaid, for the space of one year from the twenty-ninth day of September aforesaid, they the said Thomas Roger Filewood then and there well knowing that a licence for a common alehouse or victualling-house in such last-mentioned house had been refused to be granted by the aforesaid Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate aforesaid, at a meeting held before that time that is to say, on the sixth day of September aforesaid, in the twenty-fifth year aforesaid, at Reigate aforesaid, in the county of Surry aforesaid, for the hundred of Reigate aforesaid, for the purpose of licensing persons to keep common inns or alehouses within the aforesaid hundred of Reigate, in the county of Surry aforesaid, according to the form of the statute in such case made and provided, and then and there well knowing that they the said Thomas Roger Filewood and Peter Whalley could not lawfully grant such licence,

in

2d Count.

in breach and violation of their duty as such keepers of the peace, and justices as aforesaid, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the said coroner and attorney of our said lord the king giveth the court further to understand and be informed, that Henry Webb Prince, as a person residing and dwelling at Reigate aforesaid, in the said county of Surry, within the said hundred, called the hundred of Reigate, at the said meeting of the said justices, before the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, then and still being three of the keepers of the peace, and justices of our said lord the king, assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county of Surry, acting in and for the said hundred, did then and there require the said justices to grant unto him the said Henry Webb Prince a licence to keep a common alehouse, inn, or victualling-house in the house wherein he the said Henry Webb Prince did then inhabit and dwell, at Reigate aforesaid, within the hundred aforesaid, for the space of one year from the twenty-ninth day of the same September: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, and being the only acting justices at the said meeting, then and there, on the said sixth day of September, in the twenty-fifth year aforesaid (having taken all and singular the premises into their consideration), did refuse to grant their licence under their hands and seals for the keeping a common alehouse, inn, or victualling-house wherein the said Henry Webb Prince then did inhabit and dwell, at Reigate aforesaid, within the hundred aforesaid, as by the law they had a right to do, and did not adjourn the said meeting to any other time or place: And the said coroner and attorney of our said lord the king giveth the court here further to understand and be informed, that the said Thomas Roger Filewood and Peter Whalley, being two of the keepers of the peace of our said lord the king, assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed in the same county of Surry, well knowing all and singular the premises aforesaid, and having notice that a licence had been refused to be granted by the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, at the said meeting as aforesaid, being such justices as aforesaid, acting in and for the said hundred of Reigate, in manner and for the purpose aforesaid, but not having any regard for the laws of this realm, and in defiance of legal magistracy, good order, and government, afterwards, to wit, on the tenth day of September, in the said twenty-fifth year of the reign of our said lord the king, with force and
arms,

arms, at Reigate aforesaid, in the county of Surry aforesaid, did unlawfully, wickedly, wrongfully, and corruptly meet and assemble together as keepers of the peace, and justices of our said lord the king, for the said county as aforesaid, for the purpose of granting a licence for the keeping a common alehouse, inn, or victualling-house in the said house wherein he the said Henry Webb Prince did then inhabit and dwell, at Reigate aforesaid, notwithstanding the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate, in manner and for the purpose aforesaid, had refused to grant such licence for the keeping a common alehouse, inn, or victualling-house in the said last-mentioned house, as by law they had a right to do; and notwithstanding they the said Thomas Roger Filewood and Peter Whalley well knew the same, and being then and there so met and assembled, they the said Thomas Roger Filewood and Peter Whalley did unlawfully, wickedly, wrongfully, and corruptly grant their licence, under their hands and seals, to and for Elizabeth Baldwin to keep a common alehouse, inn, or victualling-house in the house wherein he the said Henry Webb Prince did then inhabit and dwell, the said Thomas Roger Filewood and Peter Whalley well knowing that a licence for keeping a common ale-house, inn, or victualling-house in the house wherein he the said Henry Webb Prince did then inhabit and dwell, the said Thomas Roger Filewood and Peter Whalley well knowing that a licence for keeping a common alehouse, inn, or victualling-house in the said last-mentioned house had been refused by the said Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate, at the said meeting by them held, on the said sixth day of September aforesaid, in the twenty-fifth year aforesaid, at Reigate aforesaid, in the county of Surry aforesaid, for the hundred of Reigate aforesaid, in breach and violation of the said Thomas Roger Filewood's and Peter Whalley's duty as keepers of the peace, and justices aforesaid, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity: And the said coroner and attorney of our said lord the king, for our said lord the king giveth the court here further to understand and be informed, that the said Thomas Roger Filewood and Peter Whalley, being two of the keepers of the peace of our said lord the king, and justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county of Surry, not having any regard for the laws and statutes of this realm, but regardless of their duty as such keepers of the peace, and justices of our said lord the king as aforesaid, afterwards, to wit, on the tenth day of September aforesaid, in the twenty-fifth year aforesaid, with force and arms, at Reigate aforesaid, in the county of Surry aforesaid,

aforesaid, did unlawfully, wrongfully, and corruptly grant their licence, under their hands and seals, to and for one Elizabeth Baldwin to keep a common alehouse, inn, or victualling-house, in a certain other house in Reigate aforesaid, for the space of one year from the twenty-ninth day of September aforesaid, they the said Thomas Roger Filewood and Peter Whalley well knowing that a licence for keeping a common alehouse, inn, or victualling-house in such last-mentioned house had been refused to be granted by the aforesaid Anthony Dickens, esquire, Joseph Whately, clerk, and William Northey, esquire, being such justices as aforesaid, acting in and for the said hundred of Reigate aforesaid, at a meeting held before that time, that is to say, on the ninth day of September aforesaid, in the twenty-fifth year aforesaid, at Reigate aforesaid, in the county of Surry aforesaid, for the purpose of licensing persons to keep common inns or alehouses within the aforesaid hundred of Reigate, in the county of Surry aforesaid, according to the form of the statute in such case made and provided, and then and there well knowing that they the said Thomas Roger Filewood and Peter Whalley could not lawfully grant such licence, in breach and violation of their duty as such keepers of the peace, and justices as aforesaid, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown and dignity; whereupon the said coroner and attorney of our said lord the king, for our said lord the king prays the advice of the court here in the premises, and due process of law against them the said Thomas Roger Filewood and Peter Whalley in this behalf to be made, to answer to our said lord the king of and in the premises, &c.

CITY OF LONDON, to wit. Be it remembered that on the thirteenth day of February, in the year of Our Lord 1787, Thomas Wigley, of the stamp office, gentleman, comes before me Nathaniel Newnham, esquire, one of his majesty's justices of the peace for the said city (I the said justice residing near to the place where the offence hereafter mentioned was committed), and as well for our said lord the king as for himself giveth me the said justice to understand and be informed that James Spreight, late of Cheapside, in the parish of Saint Mary-le-bow, in the said city, after the fifth day of July 1786, to wit, on the tenth day of January, in the year of Our Lord 1787, did vend (a) to one Mrs. Flight, in a certain shop situate and being in Cheapside aforesaid, in the said city, a certain packet of pomatum, containing a certain quantity, to wit, three pennyworth, at and for a certain price not exceeding eight pence, to wit, and for the price of threepence, and in respect thereof a certain duty, to wit, a duty of threepence had been paid to his majesty.

An information on the 26. Geo. 3. c. 49. s. 11. and 15. for selling packets without proper stamps, and for buying to be used a second time a stamp that had been used before.

(a) Wilfully and knowingly buy a certain label marked and stamped with a certain mark and stamp, in

subject

subject to the duty of one penny, by a certain act of parliament made in the parliament of our said lord the present king, at a session thereof holden at Westminster, in the twenty-sixth year of his reign, entitled, "An Act for granting to his Majesty certain Stamp Duties on Perfumery, Hair Powder, and other Articles therein mentioned, and on Licences to be taken out by Persons uttering or vending the same," (a) of which said shop notice in writing, as in the said act is directed, had been before the time of the said sale, and after the said fifth day of July 1786, and by the said James Spreight to the commissioners for the time being for managing the duties on stamped vellum, parchment, and paper, that the same shop was the usual shop where he should utter, vend, and expose to sale the wares and articles liable to the duties to the said act imposed, no cover, wrapper, or label, by the said act directed to be pasted, stuck, fastened, or affixed to the same, being previous to such sale well and sufficiently pasted, stuck, fastened, or affixed thereto, in such manner as the commissioners appointed to manage the duties arising from stamps on vellum, parchment, and paper had directed, or in any manner whatsoever, or marked, or stamped, or printed, or impressed with any mark, device, or any particular word or words to denote the said duty aforesaid, and the rate thereof, as by the said act is directed, contrary to the form of the statute in such case made and provided, whereby and by force of the same statute, the said James Spreight hath for his said offence forfeited the sum of five pounds; wherefore the said informant prays the consideration of me the said justice in the premises, and that he the said James Spreight may be convicted of the said offence, and that one moiety of the said forfeiture may be adjudged to our said lord the king, and the other moiety thereof to the said informant, according to the form of the statute in such case made and provided, and that the said James Spreight may be summoned to appear before me and answer the premises, and make his defence thereto.

(a) Which said stamped label had been before made use of in the sale and disposal of a certain article liable to the said duty, in order to be again made use of for the like purpose.

Vide section 11.

Vide section 10.

Vide section 12.

The statute makes it necessary that the information should be brought within six calendar months after the offence committed, but this need not be stated in the body of the information, it being sufficient if it appears from the dates to be within the time limited.

Not necessary in an information to set out negatively the qualifications of the defendant when contained in the proviso to a statute, *Sira.* 555—1101. but otherwise when contained in the proviso (or saving clause) of stat. 1. Bar. 248.

BE it remembered, that J. B. esquire, coroner and attorney of our present sovereign lord the king, in the court of our present sovereign lord the king, before the king himself, who prosecuteth for our said present sovereign lord the king in this behalf, in his proper person cometh here into the court of our said present sovereign lord the king, before the king himself, at Westminster, on Information for personally challenging the prosecutor, a justice of the peace, to fight a duel,

on Friday next after the morrow of the Holy Trinity in this same term, and for our said present sovereign lord the king giveth the court here to understand and be informed, that J. S. late of, &c. farmer, being a person of a wicked and malicious mind, and of an unruly and turbulent disposition, and not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and wickedly, wilfully, and maliciously devising, designing, and intending not only greatly to scandalize and vilify S. H. of, &c. esquire, then being mayor of the borough of, &c. and also one of the justices of our said lord the king, assigned to keep the peace of our said lord the king within the borough of, &c. and also to hear and determine divers felonies and other misdemeanors committed in the borough aforesaid, in the said county, and to bring him the said S. H. into contempt and ridicule with all the liege subjects of our said present sovereign lord the king, knowing him the said S. H. but also to move, incite, instigate, and provoke him the said S. H. to fight a duel with him the said J. S. and thereby to kill and murder him the said S. H. and to cause him the said S. H. to break the peace of our said sovereign lord the king, upon the thirtieth day of, &c. in the twentieth year of, &c. by the grace of God, &c. with force and arms, at, &c. in, &c. did in the presence of the said S. H. unlawfully, wickedly, openly, and maliciously speak and utter to the said S. H. these scandalous, wicked, defamatory, and provoking words following (that is to say) "Thou art a scoundrel," &c. &c. and the said J. S. did then and there also wilfully, wickedly, maliciously, and openly, and in the presence and hearing of him the said S. H. and without any just cause or provocation whatsoever, but of his malice aforethought, did then and there challenge, and as much as in him the said J. S. lay, endeavour to incite, instigate, move, and provoke him the said S. H. to fight a duel with him the said J. S. with swords and pistols, and that he the said J. S. then and there several times threatened, that if he the said S. H. would not fight him the said J. S. he the said J. S. would post him the said S. H. for a coward; and the said J. S. of his malice aforethought, did then and there at several times urge and try, as much as in him the said S. H. lay, to provoke the said S. H. to combat him the said J. S. by reason whereof he the said S. H. was then and there put under the utmost fear and apprehension of losing his life; and other mischiefs upon him the said S. H. he the said J. S. then and there with force and arms did bring, to the great damage, scandal, infamy, and disgrace of him the said S. H. in contempt of our said present sovereign lord the king and his laws, to the evil and pernicious example of all others in the like case offending, and against the peace of our said present sovereign lord the king, his crown and dignity: And the said coroner and attorney of our said present sovereign lord the king giveth the court to understand and be informed, being a person of a wicked and malicious mind, &c.

speak

peak and utter *of him* the said S. H. and did then and there call him, &c. [Third count in the presence and hearing of the said S. H. challenged, &c. without mentioning the words: Fourth count like the third, but omitting what relates to the posting of the said S. H. for a coward.] whereupon the said coroner and attorney of our said present sovereign lord the king, for our said, &c. prayeth the consideration of the court here in the premises, and that due process of law may be awarded against him the said J. S. in this behalf, to make him answer to our said sovereign lord the king touching and concerning the premises aforesaid.

I N D E X.

GENERAL DIVISIONS OR HEADS, AND LEADING TITLES IN THE CRIMINAL DIVISION,

A N A L Y S I S.

I. OFFENCES CAPITAL are either such as are more immediately against **GOD**, or such as are more immediately against **MAN** ; and the **CAPITAL** at **COMMON LAW** are,

1. HERESY.
2. WITCHCRAFT.
3. SODOMY.

II. OFFENCES more immediately against **MAN** are either more immediately against the **KING**, or more immediately against the **SUBJECT**. Those more immediately against the **KING** (**CAPITAL**) are

1. HIGH TREASON (1) ;

or,

2. FELONIES, chiefly relating to the **COIN**.

III. OFFENCES more immediately against the **SUBJECT** are either by **COMMON LAW**, or **STATUTE**, and **CAPITAL**. Those by the **COMMON LAW** are committed either,

1. Against the **LIFE** of a **MAN**.
2. his **GOODS**.
3. his **HABITATION** ;

or,

4. **PUBLIC JUSTICE**.

1. Against his **LIFE**.

1. MURDER.

2. PETIT TREASON. } (2)

2. Of **CAPITAL OFFENCES** against the **GOODS** of another at **COMMON LAW** there are two Kinds :

1. GRAND LARCENY }
2. PETIT LARCENY } (3).

1. ROBBERY ; and
2. LARCENY from the } (4)
- Person.

3. Another Offence of this Nature, called **PIRACY** (5).

3. **CAPITAL OFFENCES** at **COMMON LAW** against the **HABITATION** are,

1. BURGLARY (6).

2. ARSON (7).

A N A L Y S I S.

IV. OFFENCES more immediately against the SUBJECT, made Capital by STATUTE, are,

1. Against WOMEN.
 1. By Rape (8).
 2. By Forcible Marriage. } (See Felonies on Sta-
 3. By Seduction. } tutes.) (11)
2. Against MARRIAGE.
 1. By CLANDESTINE MARRIAGE. (See Felonies on Statutes.)
 2. Bigamy (9).
3. By BREACH of TRUST.
 1. By Larceny from Lodgings. } (See Felonies on
 2. By Menial Servants, &c. } Statutes.)
4. Stealing CHOSSES IN ACTION. (See Felonies on Statutes.)
5. Against FREEHOLD PROPERTY.
 1. Damaging Trees, &c. (See Felonies on Statutes.)
6. Against ANIMALS.
 1. Stealing Rabbits. }
 2. Deer Stealing. } (See Felonies on Statutes.)
 3. Stealing Fish. }
7. Against PUBLIC JUSTICE.
 1. Personating Bail
 2. Returning from Transportation.
 3. By taking a Reward to restore Stolen Goods
 4. By advertising a Reward.
 5. By buying Stolen Goods, &c. } (See Felonies on Statutes.)
8. Against PUBLIC TRADE.
 1. Fraudulent Bankruptcy, &c. (See Felonies on Statutes.)
9. Against PUBLIC FUNDS.
 1. Personating a Proprietor. (See Felonies on Statutes.)
10. Against PUBLIC CREDIT.
 1. Forgery (10).
11. Against the PUBLIC PEACE.
 1. By Riot.
 2. By Threatening Letters.
 3. By Pulling Down Turnpikes, &c. } (See Felonies on Statutes.)
12. By MALICIOUS MISCHIEF.
 1. Maiming Cattle.
 2. Burning
 3. Garments, destroying, &c. &c. } (BLACK ACT. See Felonies on Statutes.)
13. Against the PERSONS of INDIVIDUALS.
 1. By Maims.
 2. Shooting at Another. } (See Felonies on Statutes.)
 3. Assaulting to rob. }
14. Against SHIPS, &c.
 1. Destroying Ships, &c. } (See Felonies on Sta-
 2. Plundering Wrecks. } tutes.)

OFFENCES

ANALYSIS.

OFFENCES NOT CAPITAL—MISDEMEANORS.

V. Such as *amount to an actual Disturbance of the Peace*, and may be committed by one or two Persons,

1. Assaults
 2. Batteries
 3. Affrays
 4. Forcible Entries and Detainers (13);
- or which require a greater Number; as

1. Riots
 2. Routs
 3. Unlawful Assemblies
- (14). (See Informations for Riots, *post.*)

VI. And such as *do not amount to an actual Disturbance of the Peace*, and are committed by *Officers*; as,

1. Neglect or Breach of Duty.
 2. Bribery.
 3. Extortion (16).
- (15). (See Informations against Officers, Justices of the Peace, &c. *post.*)

VII. And such as are committed by other Persons, without any Relation to an Office; and Offences of this Nature are,

1. Such as are infamous and grossly scandalous, Proceeding from Principles of Dishonesty, Malice, &c. as
 1. Perjury (17).
 2. Forgery at Common Law.
 3. Cheats (18).
 4. Conspiracy (19).
 5. Libels (20). (See Informations for Libels, *post.*)
 6. Keeping a Bawdy-House, or
 7. Other disorderly Place.
- (See Other Misdemeanors.)

VIII. And such as are of an inferior Nature, and neither infamous or grossly scandalous; and these are,

1. Such as more immediately affect the Public; as
 1. Common Nuisances (21);
 2. Monopolies.
 3. Forestalling, Engrossing, and Regrating.
 4. Barratry.
- and the most remarkable Kind of Common Nuisances are such as relate to HIGHWAYS, &c. in General, and BRIDGES in particular (22).
- (See Misdemeanors on Statutes and Other Misdemeanors.)

A N A L Y S I S.

IX. Such as more affect the *Interests* of particular Persons ; as,

1. Usury.
2. Maintenance.
3. Buying and Selling pretended Titles.

X. MISDEMEANORS ON STATUTES, and other MISDEMEANORS.

(*See Infra.*)

1. Exercising Trades, without serving an Apprenticeship.
2. Embezzling Naval Stores.
3. Gaming.
4. Seducing Artificers, &c. &c. &c. &c.

(23)

OFFENCES NOT CAPITAL are, **FIRST**, such as are more immediately against the KING ; as

1. Præmunire ; and
2. Contempt of his Person and Government, by seditious Words, &c. (*See Libel. ante.*) ;

and, **SECOND**, such as are more immediately against God and his holy RELIGION. (*See Misdemeanors on Statutes, and Other Misdemeanors.*)

XI. **INFORMATIONS FOR OFFENCES** admit of the like Division with **INDICTMENTS** ; as for **LIBELS**—Against **JUSTICES OF THE PEACE**, &c.—**RIOTS** and **ASSAULTS**—but here chiefly relate to the **EXCISE** and **CUSTOMS** ; and are,

1. In the KING'S BENCH.
2. By the ATTORNEY GENERAL *ex Officio*.
3. In the CROWN OFFICE.
4. In the EXCHEQUER.
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- 504. For condemnation of raw molasses spirits, for being removed by permits under a false description.
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- 504. Against a *dealer in brandy*, for taking into his possession spirits, without making entry of the place where he kept the same at the next office of the excise.
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- Prescription by all tenants and occupiers of meadows to pay tithes of the first mowing in discharge of tithes, as well of the first as the last grass, *Wi. Ent.* 577. *Hob.* 250. Judgment for plaintiff.
- On a custom within the parish, that all the inhabitants paid to the rector four pence yearly at a certain day for every milch cow, for tithes of calves, milk, and dairy, *Wi. Ent.* 528.
- Declaration on prohibition, in a suit concerning tithes of milk, &c. on suggestion of a *modus* to pay two shillings for the tithes of every cow, *Thef. Br.* 196.
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- On a custom within the parish, that the inhabitants paid one penny for every calf under seven; and above, two shillings; for every pound of wool, three pence; for every lamb, under seven, one penny; and above, 14d.; for every pullet, beyond seven, one penny; for grain in kind, for barren cattle, two pence; for garden and orchard, one penny; beasts of the plough were free; for every acre of meadow, two pence; for fire-wood, one penny, in name of hearth silver, *Wi. Ent.* 537. *Cliff.* 590.
- On a *modus* to pay for tithes of grain and hay two shillings and four pence half-penny; for every barbit (sheep) one penny; for every cow, having a calf, to

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The number of five cows, three-halfpence; for five, having calves, one shilling and four pence; for six, having calves, two shillings and eight pence; and for every cow, not having calf, one penny; in satisfaction of all the tithes, &c. adjudged bad, 2. *Lut.* 1043.

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- On an agreement by lessee, to pay vicar two shillings and sixpence yearly for all tithes for remainder of the term, 1. *Bro.* 270. By lessee and farmer of rectory, to pay four shillings per acre for wheat, and two shillings per acre for all other kind of grain, and one shilling an acre for hay yearly, at a day certain, so long as lessee and farmer shall so continue; demurrer thereto, *Wi. Ent.* 558.
- Suggestion to stay a suit for tithes of glebe brought by a curate and sequestered; prohibition granted, but denied by affidavit, that the lands were not glebe, 2. *Lut. Ent.* 1062.
- Suggestion that tithes are not due by law for a mansion house out of the city of London, *Thesf. Br.* 200.
- Where there was a *modus* for the tithe of young rabbits, *Vid.* 226. *Hanf.* 178. Where they are *feræ naturæ* not payable for them, *Thesf. Br.* 195.
- By churchwardens of a church, who by command have taken away seats in the church and erected new, and defendant libelled them, 2. *Lut. Ent.* 1032. By churchwardens for preserving custom of disposing the seats within the church at their pleasure, *Clif.* 596.
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- Inhabitants within the vill of C. in the parish of W. were used to repair the chapel of C. and by reason thereof discharged from all taxes and repairs of the church of W. *Vid.* 247.
- Suggestion (on a suit in the spiritual court, by reason of tenure to repair the fences of the churchyard) that he ought not to repair, &c. *Thesf. Br.* 185. *Clif.* 586.

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On a suggestion after an appeal, that no person by law ought to be taxed to the repair of the church of P. and for the division of the churchhouse, and for payment to poor prisoners of B. R. and Marshalsea, 2. *Lut. Ent.* 1019. Prohibition denied.

Plea to *prescription*, to pay two shillings and sixpence to rector for every acre of pasture that occupiers paid the tithes in kind, or compound for them, and traverses the prescription, and to *custom* to pay sixpence yearly to the vicar; same plea, and traverse the custom; replication, plaintiff supports his count and traverses the payment of tithes of bricks in kind; demurrer special thereto, 1. *Bro.* 293.

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Plea, that defendant was farmer of the tithes within the prebend of M. to whom all tithes of every kind ought to be paid, and because plaintiff did not pay, defendant drew him into plea, and traverse of prescription, and issue, 189.

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- Plea, that the place is not within an other parish; replication, and issue, *Tbes. Br.* 199.
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- Defendant maintains his libel, and traverses prescription to pay tithes of the first crop in discharge of tithes, as well of the first as latter mowing, and issue, *Wi. Ent.* 578. Judgment for plaintiff, *Hob.* 250.
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- Plea, that within the parish a custom that rector and churchwardens had certain sums for the burial of a parishioner, and for the ground, &c. and double the sum for a stranger, and the same for parishioner or stranger dying within parish, carried out of parish, and buried in any other place; demurrer, *Wi. Ent.* 556. Judgment that custom unreasonable, *Hob.* 175.
- Plea, custom to pay fees on marriage of a *feme* parishioner, and for non-payment justifies the suit, *Tbes. Br.* 237.
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- Suggestion, that there was no custom for payment of the mortuary, *id.* 1066.
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<i>Aff.</i>	-	-	-	-	Book of Affize.
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<i>Moor,</i>	-	-	-	-	Moor's Reports.
<i>Off. Br.</i>	-	-	-	-	Officina Brevium.
<i>Off. Cl. Pac.</i>	-	-	-	-	Office of Clerk of Peace.
<i>Plac. Cor.</i>	-	-	-	-	Staundford's Placita Coronæ.
<i>Plo.</i>	-	-	-	-	Plowden.
<i>Pop.</i>	-	-	-	-	Popham's Reports.
<i>P. Regis,</i>	-	-	-	-	Pulton de Pace Regis.
<i>Ra. Ent.</i>	-	-	-	-	Rastall's Entries.
<i>Reg. Jud.</i>	-	-	-	-	Register of Judicial Writs.
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<i>Tbo.</i>	-	-	-	-	Thompson's Ent.

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<i>Townsf. Ind.</i>	-	-	-	Townshend's Indictments.
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<i>West.</i>	-	-	-	West's Precedents.
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<i>Burn.</i>	-	-	-	Burn's Justice.
<i>Burr.</i>	-	-	-	Burrow's Reports.
<i>C. C. A.</i>	-	-	-	Crown Circuit Assistant.
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<i>Holt's Rep.</i>	-	-	-	Holt's Reports.
<i>Leach's Cr. L.</i>	-	-	-	Leach's Crown Law.
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<i>Stra.</i>	-	-	-	Strange.
<i>T. R.</i>	-	-	-	Term Reports.

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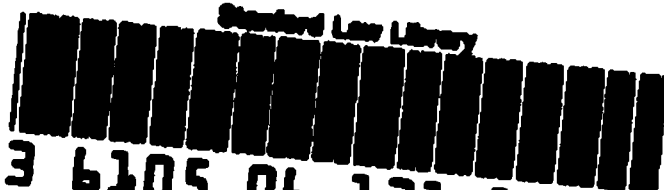
VOL. IV.

- P. 169, at the top, *for* "HIGHWAYS" *read* "BRIDGES."
P. 178, to "MISDEMEANOR," at top, *add* "BRIDGES."
P. 181, *Addenda read* "HIGHWAYS."
P. 258, at top, *add* "PERJURY IN," before "AFFIDAVIT."
P. 268, "PERJURY IN" *after* "MISDEMEANOR."
P. 369, note at bottom, *after post*, Vol. VI. p. 14.
P. 387, in margin, *after* "succeeding," "attorney general."
P. 430, *dele* "ON STATUTES."
P. 491, in margin, *read* "of spirits under seizure," *instead of* "under seizure of spirits."
P. 509, five lines from bottom in margin, *after* "excess" *add* "of."
P. 521, at top, *read* "DISTILLERS."
P. 541, at top, *dele* "INFORMATIONS," *read* "NOTICE OF APPLICATION TO REMOVE
SUBPŒNA."

VOL. VI.

- P. 7, to "QUI TAM," at top, *add* "FORESTALLERS."
P. 133, 21st line from top, *add* "Plea" in the margin.
P. 209, at top, *add* "QUO WARRANTO."
P. 220, margin, *for* "Rejoinder" *read* "Replication."
P. 223, three lines from bottom in margin, *add* "Rejoinder."
P. 249, tenth line from top, *add* "Plea."
P. 293, margin, *read* "to" *instead of* "at."
P. 352, 4th line from bottom, *instead of* "of which," *read* "which."

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